Congressional Record.

PROCEEDINGS AND DEBATES OF THE SIXTY-FOURTH CONGRESS, FIRST SESSION.

SENATE.

THURSDAY, *March 16, 1916.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, God of all the nations and of all people. Thou knowest our thoughts afar off and there are no secrets in our hearts hidden from Thee. We lift up our hearts to Thee and ask if there be anything in them of an offense to any of Thy children that Thou wilt take it from us and remove our sins far from us. With clean hands and pure hearts may we address ourselves to the tasks of the day and meet the tremendous responsibilities that are upon us now as a Nation. Let Thy light shine upon the pathway of our national progress.

We remember to-day those who represent this Nation who have crossed the international boundary and who are in places of great danger. O God, guide Thou our boys; and we pray that out of the present unrest there may speedily come peace, brotherly love, and friendship. We pray that the gospel of Thy Son may follow the conflicts of men and bring through its blessed ministry an end of war and reestablish the nations of earth in mutual confidence and good will. We ask for Christ's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

ESTIMATES OF APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting estimates of appropriation for increases in the office of the Supervising Architect, Treasury Department (S. Doc. No. 358), which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Captain Commandant, United States Coast Guard, submitting estimates of deficiencies in the appropriations for the Coast Guard for the fiscal year ending June 30, 1916 (S. Doc. No. 359), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

PENSIONS AND INCREASE OF PENSIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10037) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCUMBER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. JOHNSON of Maine, Mr. HUGHES, and Mr. McCUMBER conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 11078) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McCUMBER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. JOHNSON of Maine, Mr. HUGHES, and Mr. McCUMBER conferees on the part of the Senate.

DU PONT DE NEMOURS POWDER CO.

Mr. SAULSBURY. Mr. President, I am not much of a believer in having articles from newspapers read from the desk, but some time ago a Member of this body sent to the desk and had inserted in the RECORD an article, which appeared in Harper's Weekly some time during the year 1914, grossly libelous, upon some eminent and highly respected citizens belonging to a distinguished family in my State.

On yesterday in one of the courts of New York Judge Mayer, in determining a case brought by the author of these articles where their truth was a material question, dismissed the suit, rebuked the plaintiff for his action, and gave a judicial determination of those facts which were most libelously alleged against these citizens of my State.

I ask that the report of this case and the judge's opinion as contained in the New York Sun of to-day be read by the Secretary, and I should like to say a few words when the reading has been concluded.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

[From the New York Sun, Thursday, Mar. 16, 1916.]

DU PONTS ABSOLVED OF TREASON CHARGE—COURT DISMISSES $50,000 LIBEL SUIT INVOLVING UNITED STATES POWDER SECRETS—JUDGE REBUKES WRITER.

After hearing strong testimony for the defense from such witnesses as Hudson Maxim and Rear Admiral William M. Folger, former Chief of Ordnance of the United States Navy, Judge Julius M. Mayer, of the Federal district court, yesterday dismissed the $50,000 libel action brought against E. I. du Pont de Nemours Co. by Charles Johnson Post, a magazine writer.

Post was the author of several articles published in Harper's Weekly in May, 1914, in which he accused the du Pont interests of giving out to German powder manufacturers secrets concerning the manufacture of powder for the United States Government. The du Pont company sent a letter to magazine editors throughout the country condemning the articles as "outrageously libelous," and declaring that the editor of the magazine which published them had become convinced of their unfairness. Post contended in his suit that the letter had injured him by prejudicing the magazines against his work.

In his sharp rebuke to the plaintiff, delivered from the bench, Judge Mayer said that Post instead of having been libeled had committed libel per se against the du Pont interests by holding the officials of the company up as traitors to their country without having first made a fair investigation.

THE COURT'S OPINION.

"I hold as a matter of law," said the judge in dismissing Post's suit, "that no man has a right to accuse an American citizen of such a horrible crime as treason without knowing what he is talking about. The plaintiff in two articles charged the defendants with being spies of foreign Governments. That is the gravest crime of which an American could be charged, and I consider the accusation libelous per se. When the defendants in their letter said that Post had grossly libeled them they stated the truth. They came right back like real men, and I should have despised them if they had not taken that course."

The burden of the testimony given by the witnesses for the defense was to the effect that the contracts entered into between the du Pont company and the United Rhenish Westphalian Mills in November, 1889, were not only known to the United States Government but approved of by it; that the interchange of powder-making formulas between the American and German companies rather than being injurious to this Government was beneficial, as the German companies were making far better powder; that the United States Government had no secrets to lose; and, finally, that the du Pont company had always aided the United States Government even to its own injury.

FOLGER ON STAND.

Rear Admiral Folger, retired, testified that the international powder agreements had been entered into by the German and American concerns while he was the Chief of Ordnance under the late Gen. Benjamin Tracy, then Secretary of the Navy. It was at the request of Gen. Tracy, the witness said, that one of the du Pont family was sent to Germany to get the formulas for making brown prismatic powder. The contract which the du Ponts entered into with the Rhenish Westphalian Mills, he said, was examined and approved by Gen. Tracy. It was regarded as highly satisfactory, as the making of brown prismatic and nitrate of ammonia powder had been very unsuccessful in this country up to that point.

Hudson Maxim, although admitting that the United States Government maintained laboratories for powder experiments, declared it to be untrue that the smokeless powder in use now was the result of experiments made by officers working in these laboratories. These officers, he said, had taken out some patents, but they had never been used. The du Ponts, he said, were the greatest powder manufacturers in the world.

"Yes," he replied to a question from Edgar A. Ryder, attorney for Post, "I am at present an employee of the du Pont company, but I don't own any stock. I wish I did."

Col. E. G. Buckner, vice president of the du Pont company, and head of that concern's department devoted to the manufacture and sale of

military powder, was put on the stand by Martin W. Littleton, chief counsel for the defense, to refute Post's charge that he had ever done anything to injure the Government. He denied that he had ever transmitted to any foreign Government any secrets concerning the manufacture of smokeless powder which his company manufactured under contract for the American Government.

Mr. SAULSBURY. Mr. President, I suppose if I were controlled by political considerations possibly I should be glad to see the people who have sometimes been chiefly interested in this great company labor under all the false charges that might be made against them, but it seems to me to be my duty to say a word for these very eminent and respectable people who have performed their patriotic duty toward the country which their great great grandfather adopted more than a century ago; and being my constituents, I think this article should be inserted, as I have been permitted to insert it, in the RECORD.

Those great powder manufactories were started more than a hundred years ago and for the past hundred years have contributed to the safety and the welfare of this country. The son of the man who came originally to this country—who, by the way, was a very distinguished and illustrious Frenchman, Pierre Samuel du Pont, who is well known in the history of France and somewhat in the history of this country—finding that the powder manufactured in this country was very unfit for ordinary use, returned to France and there visited the great chemist Lavoisier and studied powder making in his laboratories. Returning here, practically the first great work that the company did—it was then a firm—was to supply our ships on Lake Erie with powder, and by that means they aided in the great victory of Commodore Perry.

Ever since that time these works have continued to supply at fair prices, according to the testimony of the officials of the Government, and in cooperation with this Government whatever was needed of them. Lafayette, Jefferson, and other distinguished men were instrumental, I think, in obtaining the establishment of these works, and were friends of the people who established them.

Never in any war since they have been Americans has any member of this family, so far as I know, ever failed to perform his full and patriotic duty; and knowing the heads of the firm and of the company personally, as I have, in many cases very well, men who have been the heads of that company for the past 50 or 60 years, I know their character, attainments, reputation, and patriotism, and I am very glad to have an opportunity to insert this judicial opinion in regard to the libelous article which, undoubtedly unknowingly, was inserted by a Senator some time ago in the RECORD of the proceedings of this body.

PROHIBITION IN THE DISTRICT OF COLUMBIA.

Mr. JONES. Mr. President, I desire to give notice that on Saturday, at the conclusion of the remarks of the Senator from Georgia [Mr. HARDWICK], I shall submit some remarks with reference to the proposed referendum on prohibition to the people of the District of Columbia.

VOCATIONAL EDUCATION.

Mr. SMITH of Georgia. Mr. President, we have upon our calendar reported with the unanimous approval of the Committee on Education and Labor the bill providing for vocational education, which was prepared by the joint commission under a joint resolution last year. The bill will be brought to the attention of the Senate in the near future, and I wish to have printed in the RECORD certain resolutions that have been passed with reference to it.

The bill was submitted to the department of superintendence of the National Educational Association; also to the American Home Economics Association; and also to the educational committee of the American Federation of Labor. All of these organizations have given, through committees, careful study to the bill, and they have indorsed it with one exception.

The bill as presented to the Senate provides for a board of control consisting of Cabinet members. The department of superintendence, National Education Association, and the American Home Economics Association each recommend that the board of control should be members selected outside of the Cabinet. I ask that the resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS.

[Department of superintendence, National Education Association, Feb. 24, 1916.]

Resolved, That the department reaffirms its approval of Federal aid to vocational education as proposed in the Smith-Hughes bill and now before Congress. It believes, however, that the work to be done is so important and so diversified as to require the creation of a Federal board to administer the act, who shall give their undivided attention to the subject and who shall be representative of the educational interests to be served.

[American Federation of Labor.]

Resolved, That the executive council of the American Federation of Labor indorse the Smith-Hughes bill for industrial education, with the declarations made by the National Society for the Promotion of Industrial Education, as contained in the quoted parts of the letter to Congress of January 27, 1916.

[American Home Economics Association, Feb. 25, 1916.]

The American Home Economics Association, assembled in Detroit, reaffirms its approval of Federal aid to vocational education, as provided for by the Smith-Hughes bill, recommended by the President's Commission on National Aid to Vocational Education and now before Congress.

The association believes, however, that the ends to be served are so important and so diversified as to require a Federal board, the members of which shall give their undivided attention to the administration of the act and shall be representative of the interest to be served.

IMPORTS OF MERCHANDISE.

Mr. GALLINGER. Mr. President, I have a table compiled by Mr. C. H. Brown, chairman of the hosiery manufacturers' legislative committee, in reference to the imports of merchandise and agricultural products on October, 1915, October, 1914, and also October, 1912, which I ask to have printed in the RECORD without reading.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

A TARIFF TALE.

Imports of merchandise and agricultural products in October, 1915 and 1914, under the Underwood law, and October, 1912, under the Payne law, using for comparison products which are subject to the most severe competition.

Products.	1915 values.	1914 values.	Increase.	1912, Payne law.
Breadstuffs	$3,848,777	$2,252,120	$1,596,657	$1,202,184
Clocks and parts	63,842	63,443	399	92,088
Watches and parts	277,896	246,339	31,557	253,691
Nets and nettings	101,386	59,797	41,589	46,250
Hides and skins	13,401,077	7,300,310	6,100,767	9,490,044
Perfumeries, etc	245,716	213,321	32,395	194,174
Seeds	2,273,330	2,192,898	80,432	895,785
Artificial silk	488,605	311,592	177,013	301,439
Vegetables	910,674	753,631	157,043	1,288,724
Laths and shingles	601,286	505,597	95,689	377,213
Wool and angora hair	7,827,542	2,657,360	5,170,182	2,989,736
Total, 11 products	30,040,131	16,556,408	13,483,723	17,131,323
			Decrease.	
Aluminum scrap	37,295	448,704	411,409	302,893
Aluminum manufactures	40,589	52,614	12,025	61,527
Automobiles and parts	59,349	165,040	105,691	188,933
Cotton cloths	586,822	610,646	23,824	535,820
Embroideries	339,491	595,174	255,683	1,235,294
Lace and lace articles	876,527	983,197	106,670	1,396,265
Stockings (cotton)	14,558	75,789	61,231	271,141
All other knit goods	118,690	172,979	54,289	36,663
Eggs	8,854	20,454	11,600	None.
Handkerchiefs (linen)	286,223	338,205	51,982	353,434
Yarns (linen)	41,181	75,935	34,754	77,830
Fish	1,964,846	2,365,875	401,029	1,722,639
Fruits and nuts	3,416,563	5,200,163	1,783,600	4,770,559
Plate glass	None.	7,856	7,856	20,966
Other glass	242,063	300,227	58,164	609,850
Cutlery	48,153	216,365	168,212	230,312
Enameled ware	25,251	44,238	18,987	46,405
Tin plate	2,605	15,114	12,508	32,472
Leather and tanned skins	849,750	1,144,376	294,626	842,673
Gloves (leather)	500,722	945,914	445,192	955,618
Meat and dairy products	2,423,374	4,311,175	1,887,801	1,388,641
Oilcloth and linoleum	45,993	143,162	97,169	192,623
Paper and manufactures	2,274,220	2,277,128	2,908	1,985,514
Films and plates	112,977	238,663	125,686	140,222
Silk manufactures	2,033,456	2,450,607	417,151	2,271,533
Wood pulp	1,402,111	2,123,382	721,271	1,502,190
Wool manufactures	1,120,196	3,110,599	1,990,403	1,713,383
Total, 27 products	18,871,860	28,433,581	9,561,721	22,885,421
Increase list	30,040,131	16,556,408	13,483,723	17,131,328
Total, 38 products	48,911,991	44,989,989	3,922,002	40,016,749

In the monthly comparisons for October, 1915, Mr. C. H. Brown, of the hosiery manufacturers' legislative committee, uses 38 products, 11 of which are breadstuffs, clocks, watches, nets and nettings, hides and skins, perfumeries, seeds, artificial silk, vegetables, laths and shingles, and wool and angora hair, and which show an increase in imports, compared with 1914, of $13,483,723, the totals being in October, 1914, $16,556,408, and in October, 1915, $30,040,131, while in October, 1912, they were $17,131,328.

The following 27 products, aluminum scrap, aluminum manufactures, automobiles and parts, cotton cloths, embroideries, lace and lace articles, cotton stockings, knit goods, eggs, handkerchiefs, yarns, fish, fruits and nuts, plate glass, other glassware, cutlery, enameled ware, tin plate, leather and tanned skins, leather gloves, meat and dairy products, oilcloth and linoleum, paper and manufactures, films and plates, silk manufactures, wood pulp, and wool manufactures, show a decrease from $28,433,581 to $18,871,860, being $9,561,721.

The total imports of the 38 products in October, 1915, were $48,911,991, compared with $44,989,989 in October, 1914, an increase of $3,922,002, the total imports in both years being much larger than under the Payne law in 1912, which were $40,016,749.

With the exception of three months, during the past two years imports of the products we have used have been heavier than in the same

months under the Payne law; and while total imports of all merchandise have decreased, such has not been the case with many products having severe foreign competition; and where a decrease in products of this class has been shown, it has been slight, rarely falling below the imports of the same products under the Payne law.

Farmers should be interested in the increase in imports in October, 1915, covering products which they supply. Breadstuffs show an increase of $1,596,657; hides and skins, $6,100,767; wool and angora hair, $5,170,182, making an increase of over $12,000,000 in farm products alone.

With the foreign war in full swing, and imports supposed to be much restricted, it is not very encouraging to those who supply the above products to know, as disclosed by the figures, that foreign manufacturers can send us more merchandise than under the Payne law, a fact that seems to prove our contention that the Underwood law always has been, and is now, a menace to American industry, and fully justifies the alarm felt over the conditions that must prevail when the war ends, and which can only be prevented by some form of tariff legislation which will protect the home producer.

The hosiery and knit-goods industries are now practically in complete control of the home market, as imports are too small to cut any figure in the trade, but, unfortunately, they are unable to take advantage of the opportunity presented, owing to the scarcity of dyes, and at this time nothing indicates that there will be any immediate relief from the dye situation. Hosiery and knit-goods manufacturers have been able to advance selling prices to some extent, but not to prices anywhere near the increased cost of production, due to the high price of dyestuffs and higher wages, resulting from labor legislation.

DEALING IN COTTON FUTURES.

Mr. SHEPPARD. I have here a resolution from the Presidents' Association of the Farmers' Educational and Cooperative Union of America in regard to the cotton-futures bill, which I ask to have printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

To the Senate and House of Representatives, Washington, D. C.:

Whereas when the cotton-futures act, known as the Smith-Lever bill, was passed, section 11 was injected for the expressed purpose of forcing all foreign countries to accept the American standard of grades by levying a toll of 2 cents per pound, or $10 per base, for each transaction in hedging by American dealers in foreign cotton exchanges and as now amended by the subcommittee, it is proposed to levy the same toll on all transactions by foreign dealers in American cotton exchanges; and

Whereas believing as we do that any and all tolls of whatsoever nature levied on such transactions, either on American or foreign dealers, is a burden directly borne by the cotton producers; and

Whereas if the American standard of grades, under such penalty, be adopted by foreign exchanges, the adoption would be without benefit to the producer and dearly purchased by the cotton raisers: Now, therefore, be it

Resolved, That we, the members of the President's Association of the Farmers' Educational and Cooperative Union of America, and members of the marketing committee of said organization, in convention assembled at New Orleans, La., this the 9th day of March, 1916, most respectfully urge that you immediately reenact into law the Smith-Lever bill, omitting section 11 and section 11a, thereby saving an untold amount to the producers of cotton;

Resolved further, That a copy of these resolutions be furnished to each Senator and Member of the Congress of the United States, and that copies be furnished to the press.

O. P. FORD,
President and member of the Marketing Committee Farmers' Union of Alabama, McFall, Ala.
J. L. SHEPARD,
President and member of the Marketing Committee Farmers' Union of Florida, Greensboro, Fla.
O. W. TAYLOR,
President and member of the Marketing Committee Farmers' Union of Oklahoma, Roff, Okla.
I. N. MCCOLLISTER,
President and member of the Marketing Committee Farmers' Union of Louisiana, Many, La.
H. N. POPE,
President and member of the Marketing Committee Farmers' Union of Texas, Fort Worth, Tex.

Whereas the State of Alabama, through its legislature, in September last enacted a measure in favor of legitimate transactions in cotton-future contracts, which at the same time prohibited, under severe penalties, bucket shopping, which is gambling on the price of cotton, with no intention on the part of the gamblers to either receive or deliver the cotton claimed to be called for; and

Whereas legitimate business on the exchanges in legal contracts is a help as a price insurance to the farmer in disposing of his products, while the bucket shop is a curse to the country, encouraging petty gambling by irresponsible parties: Now, therefore, be it

Resolved, That we, the members of the Presidents' Association of the Farmers' Educational and Cooperative Union of America and members of the marketing committee of said organization, in convention assembled, at New Orleans, La., this, the 9th day of March, 1916, most respectfully urge that every cotton State adopt a measure similar in form to the Alabama law.

Resolved further, That attention be called to the fact that the Alabama law is an indorsement of the act of Congress known as the United States cotton-futures act, which act is the result of years of study in the interest of the producers of cotton by the best brains and the ablest men representing the Southern States in both branches of Congress; further, that its practical trial during the past year has demonstrated that (excepting sec. 11, which restricted business with foreign countries) it meets the needs of the cotton growers, eliminating evils which have heretofore been complained of.

Resolved also, That the farmers of the South claim the right to dispose of their cotton either by future contract or otherwise, as they may deem proper, and that they claim the right to buy or sell legitimate or legal future contracts at home or abroad whenever or wherever they may consider their best interests demand; further, that they are opposed to any law or laws that may in any manner restrict them in the free exercise of their judgment in reference to the handling of their business.

I. N. MCCOLLISTER,
President and member of the Marketing Committee Farmers Union of Louisiana, Many, La.
H. N. POPE,
President and member of the Marketing Committee Farmers' Union of Texas, Fort Worth, Tex.
O. P. FORD,
President and member of the Marketing Committee Farmers' Union of Alabama, McFall, Ala.
J. L. SHEPARD,
President and member of the Marketing Committee Farmers' Union of Florida, Greensboro, Fla.
O. W. TAYLOR,
President and member of the Marketing Committee Farmers' Union of Oklahoma, Roff, Okla.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

H. R. 403. An act granting to the State of Oklahoma permission to occupy a certain portion of the Fort Sill Military Reservation, Okla., and to maintain and operate thereon a fish hatchery;

H. R. 3636. An act to amend section 3646 of the Revised Statutes of the United States as reenacted and amended by act of February 23, 1909;

H. R. 4530. An act for the relief of Michael F. O'Hare;

H. R. 10032. An act to authorize the construction of a bridge across the Ohio River from a point on its banks in the city of Pittsburgh, Pa., at or near the locality known as Woods Run, to a point on the opposite shore of said river within the borough of McKees Rocks, Pa.;

H. R. 10238. An act granting the consent of Congress to Interstate Bridge Co. to construct a bridge across Mississippi River;

H. R. 10487. An act reserving or excepting all ores or minerals on the lands, with the right of mining the same, on the site of the proposed post-office building at Calumet, Mich.;

H. R. 11628. An act granting the consent of Congress to the city of Lowell, county of Middlesex, State of Massachusetts, to construct a bridge across the Merrimack River; and

H. J. Res. 180. Joint resolution providing for an increase of the enlisted men of the Army in an emergency.

PETITIONS AND MEMORIALS.

Mr. ROBINSON presented a memorial of sundry citizens of Little Rock, Ark., remonstrating against the enactment of legislation to limit the freedom of the press, which was referred to the Committee on Post Offices and Post Roads.

Mr. PHELAN presented a petition of Local Union No. 120, Butchers' Union, of Oakland, Cal., praying for the enactment of legislation to prohibit interstate commerce in the products of child labor, which was referred to the Committee on Interstate Commerce.

He also presented a petition of Local Union No. 228, Cigar Makers' International Union, of San Francisco, Cal., praying for the printing of the report of the Commission on Industrial Relations, which was ordered to lie on the table.

He also presented a memorial of the Trades and Labor Council of Vallejo, Cal., remonstrating against the proposed repeal of the so-called seamen's act, which was referred to the Committee on Commerce.

Mr. GALLINGER presented petitions of the Woman's Christian Temperance Union of Alton; the Orient Club, of Manchester; the King's Daughters, of Jefferson, and the Woman's Christian Temperance Union and Mothers' Club, of Cornish, and of sundry citizens of Meredith, Danville, Epping, and Brentwood, all in the State of New Hampshire, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Shakespeare Club, of Manchester, N. H., praying for an investigation of conditions surrounding the marketing of dairy products, which were referred to the Committee on Agriculture and Forestry.

Mr. STERLING presented a petition of Fredens Baand Lodge, No. 54, International Order of Good Templars, at Sioux Falls, S. Dak., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SHEPPARD presented petitions of the Christian Endeavor Society of Rockport and the congregation of the Christian Church of Alpine, in the State of Texas, and of the Woman's Christian Temperance Union, No. 2, of Washington, D. C., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Camp County, Tex., praying for the adoption of certain amendments

to the so-called cotton futures law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry citizens of San Antonio, Tex., praying for the placing of an embargo on munitions of war, which was referred to the Committee on Foreign Relations.

He also presented a petition of the congregation of the Garden Memorial Presbyterian Church, of Washington, D. C., praying for prohibition in the District of Columbia without the referendum, which was ordered to lie on the table.

Mr. NELSON presented petitions of sundry citizens of Minnesota, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. STONE presented petitions of sundry citizens of Missouri, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Spickard, Norrisville, Booneville, Clinton, Springfield, Blackwater, Marshall, and Helena, all in the State of Missouri, praying for prohibition in the District of Columbia, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Moniteau County, Mo., praying for Federal aid in the construction of good roads, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. LEA of Tennessee presented petitions of sundry citizens of Clifton and Westport, in the State of Tennessee, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. JOHNSON of Maine (for Mr. BURLEIGH) presented petitions of sundry citizens of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. WADSWORTH presented petitions of sundry citizens of New York, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Onondaga County, N. Y., praying for the enactment of legislation to found the Government on Christianity, which was referred to the Committee on the Judiciary.

Mr. WARREN presented petitions of sundry citizens of Wyoming, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of Rock Lake Grange No. 13, Patrons of Husbandry, of Wheatland, Wyo., praying for Government ownership of telegraph and telephone lines, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Town Council of Douglas, Wyo., praying that an appropriation be made for the construction of a military and post road from St. Louis, Mo., to Olympia, Wash., which was referred to the Committee on Military Affairs.

GILA RIVER, ARIZ.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (S. 4655) authorizing and directing the Secretary of the Interior to determine the most suitable method of preventing further erosion and overflow on Gila River, Ariz., reported it without amendment and submitted a report (No. 262) thereon.

WABASH RIVER BRIDGE, INDIANA.

Mr. SHEPPARD. I report from the Committee on Commerce favorably and without amendment the bill (S. 5016) to authorize the reconstruction of an existing bridge across the Wabash River at Silverwood, in the State of Indiana, and the maintenance and operation of the bridge so reconstructed, and I submit a report (No. 261) thereon. I ask unanimous consent for the immediate consideration of the bill.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Texas to explain the bill. It is framed in such a way that I can hardly catch its object by the mere reading of it from the desk.

Mr. SHEPPARD. The bill is in the usual routine form, if I am not mistaken.

Mr. SMOOT. I will ask the Senator if the bill is not simply for the reconstruction of the bridge and not for its maintenance?

Mr. SHEPPARD. It is merely to authorize the reconstruction of the bridge, as I understand. This is one of the ordinary bridge bills. If, however, the Senator from Utah has any question in mind regarding the bill, I will withdraw it for the present.

Mr. SMOOT. I do not want to object to the consideration of the bill. It only seemed to me that the bill was rather inconsistent with its title, and I really believe it is. I think the title ought to be changed. If the Senator would allow the title to read simply "to authorize the reconstruction of an existing bridge across the Wabash River at Silverwood, in the State of Indiana," I think it would then conform to the bill.

Mr. SHEPPARD. I have no objection to the amendment of the title, Mr. President.

The VICE PRESIDENT. Is there objection to the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the reconstruction of an existing bridge across the Wabash River at Silverwood, in the State of Indiana."

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HOLLIS:

A bill (S. 5080) to provide for the use of public-school buildings in the District of Columbia as community forums, and for other purposes; to the Committee on the District of Columbia.

By Mr. PHELAN:

A bill (S. 5081) to grant rights of way over Government lands for reservoir purposes for the conservation and storage of water to be used by the city of San Diego, Cal., and adjacent communities; to the Committee on Military Affairs.

By Mr. MYERS:

A bill (S. 5082) adding certain lands to the Missoula National Forest, Mont.; to the Committee on Public Lands.

A bill (S. 5083) granting a pension to Abram Hall; to the Committee on Pensions.

By Mr. SHEPPARD:

A bill (S. 5084) to regulate the salaries of keepers of lighthouses; to the Committee on Commerce.

A bill (S. 5085) to provide for the establishment of national cooperative rural banking associations; to the Committee on Banking and Currency.

By Mr. ASHURST:

A bill (S. 5086) amending section 4 of the public building act approved March 4, 1913, providing for the purchase of a site for a building for post office and customhouse at Nogales, Ariz.; to the Committee on Public Buildings and Grounds.

By Mr. STERLING:

A bill (S. 5087) granting an increase of pension to Andrew E. Waterman (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 5088) to amend the act entitled "An act to provide for the repayment of certain commissions, excess payments, and purchase moneys paid under the public-land laws," approved March 26, 1908; to the Committee on Public Lands.

By Mr. NELSON:

A bill (S. 5089) granting a pension to Margaret Rice Thompson; to the Committee on Pensions.

By Mr. JAMES:

A bill (S. 5090) granting a pension to Radford Fain (with accompanying papers); to the Committee on Pensions.

By Mr. SAULSBURY:

A bill (S. 5091) granting a pension to Nancy J. Willey (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 5092) granting an increase of pension to Laura E. Knox (with accompanying papers);

A bill (S. 5093) granting a pension to Francett Dickinson (with accompanying papers);

A bill (S. 5094) granting an increase of pension to William J. Bradford (with accompanying papers); and

A bill (S. 5095) granting an increase of pension to Myra R. Daniels (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 5096) for the relief of Henry von Hess; to the Committee on Military Affairs.

DETROIT RIVER POSTAL SERVICE.

Mr. TOWNSEND submitted an amendment providing that the marine letter carriers assigned to the Detroit River postal service shall be paid $1,500 per annum, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

NATIONAL DEFENSE.

Mr. SMITH of Georgia. Mr. President, I offer an amendment to the Army reorganization bill. I shall not ask that it be read, but that it be printed and referred to the Committee on Military Affairs. I wish, however, to mention that the two features of the amendment are, first, to lessen the number of years of enlistment with the colors to two years, and to provide further that—

In addition to the work not connected with the military service, soldiers on active duty hereafter enlisting shall devote an average of 96 hours monthly to study and to receiving instructions upon educational lines not directly connected with the military service, and preparatory to their return to civil life. A part of this preparation for civil life shall consist of vocational education, either in agriculture or the mechanical arts, and civilian teachers may be employed to aid the Army officers in conducting the said educational work.

The VICE PRESIDENT. The proposed amendment will be printed and referred to the Committee on Military Affairs.

ISSUANCE OF FREE INTRASTATE PASSES.

Mr. LEA of Tennessee submitted the following resolution (S. Res. 134), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Whereas the report that has been made by the Interstate Commerce Commission to the United States Senate showing the issuance of free intrastate passes to the extent of hundreds of thousands of dollars annually; and

Whereas it is important to determine whether the issuance of such free transportation for intrastate use constitutes a discrimination affecting interstate rates; and

Whereas it is reported that such issuance of intrastate transportation is for the purpose of obtaining for the railroads using such transportation heavy shipments of interstate traffic: Therefore be it

Resolved, That a committee of five Senators be appointed by the President of the Senate, with authority to investigate the issuance of such free intrastate passes and report the result of such investigation to the Senate during this session of Congress; that said committee shall be authorized to sit during the sessions of Congress or any recess thereof; that it be authorized to send for persons, books, and papers; to administer oaths, and to employ a stenographer, at a cost not to exceed $1 per printed page; to report such hearings as may be had in connection with this investigation, the expenses of said investigation to be paid out of the contingent fund of the Senate, the entire cost not to exceed $500.

PUBLIC PRINTING AND BINDING.

Mr. SMOOT. Mr. President, in the absence of the Senator from Florida [Mr. FLETCHER], I wish to call particular attention to the bill (S. 1107) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications. I wish to give notice that at the very first opportunity I shall ask the Senate to take up the bill for consideration, and I hope that it may be passed.

We are passing bills every day taking money out of the Treasury of the United States; but, if this bill becomes a law, it will save the Government of the United States at least $800,000 every year. I hope that the Senate will vote at the first opportunity to take up the bill, and either reject it or pass it. It has been in one House or the other for a number of years. It has passed this body and has passed the other body, but has failed of action in either one or the other of the two Houses each year.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Sharkey, one of his secretaries, announced that the President had, on March 16, 1916, approved and signed the following act:

S. 3518. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

THE CALENDAR.

The VICE PRESIDENT. Are there further concurrent or other resolutions? If not, morning business is closed. The calendar under Rule VIII is in order. The Secretary will state the first bill on the calendar.

The first bill on the calendar was the bill (S. 1053) to provide for stock-raising homesteads, and for other purposes.

Mr. SMOOT. Let that bill go over, Mr. President.

The VICE PRESIDENT. The bill goes over.

The bill (S. 1062) relating to the duties of registers of United States land offices and the publication in newspapers of official land-office notices was announced as next in order.

Mr. MYERS. Mr. President, I hope no objection will be made to the consideration of that bill. I trust the Senator from New Mexico [Mr. FALL] is either in the cloakroom or in the Chamber.

Mr. SMOOT. I will say to the Senator from Montana that the Senator from New Mexico has notified me that with his amendment embodied in the bill—and I understand that it has been agreed to—he has no objection to the passage of the bill.

Mr. MYERS. But I object to the amendment, and I should like to have the Senator from New Mexico here. I ask that the bill be passed over temporarily until I can find the Senator from New Mexico. As soon as he comes into the Chamber I ask that we may take up the bill. Is there objection to that request, I will inquire?

Mr. GALLINGER. Let the bill go over, Mr. President.

The VICE PRESIDENT. The bill goes over.

The bill (S. 706) to amend section 260 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was announced as next in order.

Mr. GALLINGER. Let that bill go over.

The VICE PRESIDENT. The bill goes over.

The bill (S. 609) to aid in the erection of a monument to Pocahontas, at Jamestown, Va., was announced as next in order.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. The Senator from Massachusetts.

Mr. WEEKS. Mr. President, I gave notice yesterday that at the end of the routine morning business to-day I would address the Senate on the subject of the armor-plant bill. I evidently was not on my feet at the conclusion of routine morning business, and I wish to know if it is now in order for me, by unanimous consent, to proceed?

The VICE PRESIDENT. Of course, it is known to every Senator that such notices as the one given by the Senator from Massachusetts, to which he has just referred, are not binding on Senators. The Senator may proceed by unanimous consent; but if there is an objection, the calendar is in order. Is there objection? The Chair hears none, and the Senator will proceed.

MANUFACTURE OF ARMOR.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1417) to erect a factory for the manufacture of armor.

Mr. WEEKS. Mr. President, I wish to discuss the armor-plant bill somewhat in detail, particularly because it is the first instance which has come to my observation where the Government is deliberately proposing to undertake a manufacturing business in competition with its own citizens and in a case where the property of its citizens will be destroyed without any doubt if the bill becomes a law. We have drifted in many instances into Government business, but in no case have we taken a stand which is comparable to that being taken in this instance. Therefore it seems to me that it is a very important step that we are taking, without any regard to the particular enterprise which is covered by this bill, and that it is worthy the attention of all Senators to consider whether it is going to be in the future a proper policy for the Government to follow, to enter into a manufacturing business in competition with its own citizens.

It has been suggested by several Senators who have addressed the Senate that all preparedness measures should be taken up and given the preference as soon as they were ready for consideration. They included among the preparedness measures the armor-plant bill which is now before the Senate. I take a directly contrary view to that position. I believe that this bill is a direct antithesis to anything pertaining to preparedness; that it will prevent preparedness in the most accepted sense in which that term can be used; and that, if we wanted to do the very thing which would prevent this Government from being prepared as far as armor-plate manufacturing is concerned, we would pass this bill.

The whole essence of a preparedness proposition is a reasonable Government operation, but depending on private manufacture and on private citizens in the form of reserves to supply our needs in time of war. Incidentally I asked the question of the head of the Ordnance Bureau, Gen. Crozier, during the consideration of the military bill in the Senate Committee on Military Affairs, how large a plant it would require to manufacture the ammunition necessary to supply an army of a million men, which is the army contemplated in the present preparedness measures, with a million men coming into the service from time to time during the first year. He had carefully worked out an estimate, and stated that it would require $400,000,000 to construct such a plant, and that it would require 750,000 employees to furnish the ammunition necessary for an army of that size. Therefore how fallacious must be the theory that the Government shall manufacture either ammunition or other equipment or armor plate without having a reserve capacity which can be called upon in case of war.

The making of armor plate is a difficult and expensive process, which can not be developed in a month or a year. The Government is practically the only market for armor plate, and no one is going into that business if the Government establishes an armor-plate factory, and no concern now in existence, in my judgment, is going to continue to keep its plant in condition for operation, as the returns which it could receive under such

conditions would be so small that it would not be a profitable investment.

Then, again, we do not know what we are going to require in the way of armor from year to year. What is of value to-day may be of little or no value 10 or 20 years from now. My own conception about the Navy at this time is that we do not require dreadnaughts to the same degree that we require very fast armored cruisers, battle cruisers, mounting four or six very high-power guns, 16-inch guns, ships that are as fast or faster than any ships in the world. When you are going to fight somebody, you must use a weapon or an implement that is at least equal to the weapon or implement which your adversary is going to employ; and the nations of the world are now constructing battle cruisers which have as high-power guns as have the dreadnaughts which we have in commission or the dreadnaughts of other nations. They are so much faster that they could keep entirely clear of the dreadnaughts, making targets of them, and they are also commerce destroyers as well. Therefore it seems to me that it is desirable in our naval program that the first consideration should be given to ships of that kind; and yet if that is done, the question of armor making is very greatly modified, because the armor of the accepted type of battle cruiser is not more than one-third, and probably not more than one-fourth, as heavy as the armor required for a dreadnaught. For that reason we might have to entirely reconstruct our armor-making plant, and certainly the question of armor in comparison with its necessary weight and other qualities to-day would be almost negligible. We would not need anything like the armor-making capacity which we will require if we are going to build dreadnaughts. That is another consideration to which we should give our attention.

This idea of battle cruisers is not my own. Of course I would not advance it against the opinions of experts, but some of the leading experts of the Navy, notably the president of the War College, Admiral Knight, and Capt. Sims, one of the ablest captains in the naval service, have recently given testimony before the House committee advocating exactly what I have suggested. If that were done, the building of an armor plant would be little short of a crime.

Again, Mr. President, the Government never builds as expeditiously nor as economically as does the private individual. We have a volume of instances, which will occur to every Senator, to the effect that we are extremely slow in commencing Government building operations and slow in their completion.

During my first term in Congress, 10 years ago, I was able to obtain an appropriation for an appraiser's storehouse in the city of Boston, which is the second port of entry in the United States. The Government never has owned an appraiser's storehouse there. It has rented quarters, at very considerably more expense than would have obtained if it had owned its own building; and yet that appropriation, which was made substantially 10 years ago, has not been used up to this date. A site has been purchased; it has been lying idle for five or six years, with loss of interest, but no steps have been taken toward the construction of the building.

That is simply an example of incidents which will occur to every one of the Senators who are giving me their attention; and if we undertook the construction of an armor-making plant, in my judgment it would be delayed very much beyond what would be the case if it were to be constructed by a private corporation.

We have an instance of what that means, because the Midvale Co. undertook the construction of a plant a dozen years ago. They had bid two or three times for the construction of armor. The Navy Department had refused to consider their bids, because they did not have a plant constructed for its manufacture. So they undertook the building of a plant, and it required two and a half years to construct a plant materially smaller than the larger one contemplated under this bill. Therefore I assume that even if we decide to pass this bill it will require, not two and a half years, but, if the other incidents are in any way comparable, three or four years, or it has been estimated as many as five years, before the plant can be constructed.

We are singularly negligent, too, in taking up those matters which have been carefully investigated by commissions or committees of Congress and giving them the consideration to which they are entitled. For instance, there has been a great deal of disagreement about the pay to which railroads are entitled for transportation of the mails. A commission of the two Houses of Congress considered this question for months and made a report to Congress which, in my opinion, would have put that service on a reasonably good basis; and yet, after two years, no final action has been taken in that matter, and if the department's present purpose of injecting certain matter which I believe ought not to go into the proposition is adopted or considered seriously, I hope it never will be adopted.

We have had a commission to take up the consideration of the expense incident to the carrying of the parcel post and what further steps should be taken to enlarge that service. It made a report more than two years ago. Nothing whatever has been done with that report, although the subject was given long and serious consideration by a joint committee of Congress.

We had a commission to consider the good-roads question, which spent many months in active consideration of that matter. It made a report to Congress. I think almost everyone who has considered the question at all admits that the report made by that commission is one that ought to be adopted; and yet it can not even be given consideration, because it is assumed that it can not become a law if that is done. There is very vital objection on the part of some even to its consideration.

The Postmaster General reported year before last that if he could reorganize the Rural Delivery Service he could save $18,000,000 annually. I do not know that he could do it, but that is the report made by him to those who are familiar with that service, and yet nothing whatever was done to authorize him to carry out that proposition. I instance these cases simply to confirm what I started to say; that is, that the Government is a slow and, as I shall attempt to demonstrate later, not an economical business agent.

I instance these cases simply to confirm what I started to say; that is, that the Government is a slow and, I shall attempt to demonstrate later, not an economical business agent.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. WEEKS. Yes; I yield.

Mr. BORAH. In that connection, what has the Senator to say as to the apparent necessity of the Governments which are now at war taking over the entire subject matter of the supply of munitions of war and putting the entire subject under the immediate control and supervision of the Government in order, as we have been informed, to secure efficiency and rapidity of supply? Have not Germany and Great Britain and France all been compelled to put the entire subject matter practically under Government control? I ask this to get the Senator's opinion, in view of his argument as to the dilatory and inefficient methods ordinarily obtaining with reference to such matters when the Government seeks to control the matter.

Mr. WEEKS. Mr. President, I will discuss that question later; but I will say to the Senator from Idaho that no European Government has any government establishment for manufacturing any munitions of war. The only country in the world that manufactures armor plate, for example, is Japan; and the only reason why Japan does it is because private capital was not available in that country to go into the business. It is true—at least, the press reports seem to intimate that it is true—that in order to get proper supervision of one kind or another, the English Government has taken charge of certain manufacturing industries, so that they may devote their entire time to the interests of the Government. I do not know the details of that, however, and all the information I have is obtained from the press reports. It is, of course, a war measure pure and simple.

Mr. BORAH. Of course I understand that it is a war measure; but it was made a war measure because of the necessity of having quick and efficient action in regard to these very matters. It seems to me it is a feature of this question which may deserve study. I presume this measure may be considered essentially a war measure.

Mr. WEEKS. Mr. President, there has been no necessity of having quick and efficient action in the United States, as I shall demonstrate when I show what the increased capacity of the American firms has been in producing munitions of war.

The question of costs relating to this proposition is of the greatest importance, and as far as possible I want to submit what seems to me to be vital matter relating to that particular subject. It is not possible to make comparisons, as it would be in any other manufacturing business, with some going business; because, as I have said, there is a limited number of plants manufacturing armor plate, and the Government is practically the only market for this armor plate. But, in my judgment, the question of costs has not been given fair consideration by the committee having this bill in charge. For that reason I want to discuss it very much in detail.

It is well worth considering whether or not it is good policy to enter into any industry which puts the Government into competition with its own citizens, even if for other reasons it seems justifiable. Government operations are notoriously lack-

ing in expedition and economy and into them enter all the evils of political influence. They are not conducted for the purpose of making profits, that being of comparatively small concern to the Government while to the citizens profits are vital, so that improvements and developments are much more likely to occur where the necessity for making profits prevails. In a case of this kind, putting the Government into the armor-making business means putting it directly into competition with the capital and business of our own citizens, over which the Government exercises the right of regulation, so that if the results are such that there is a deficit in the Government's operations the very citizen whose business is being destroyed may be taxed to help make up the deficit which follows his own ruin.

Speaking of Government operation, Herbert Spencer, in one of his essays, said:

> Between these law-made agencies and the spontaneously formed ones, who then can hesitate? The one class are slow, stupid, extravagant, unadaptive, and obstructive; can any point out in the other vices that balance these? It is true that trade has its dishonesties, speculation its follies. These are evils inevitably entailed by the existing imperfections of humanity. It is equally true, however, that these imperfections of humanity are shared by State functionaries.

The Government's own experience as a manufacturer is not sufficiently encouraging to justify any ambitious plans for a Government armor plant. Some years ago the simplest form of steel making was attempted at the Brooklyn Navy Yard, and I am informed that the failure was so acute that no one would seriously consider repeating any such attempt. The steel castings which were made at this plant are of the simplest form. As I understand it, the Government believed it could save money by buying pig iron and casting its own steel for small work. It did not contemplate in any degree the casting of steel for such important work as is contemplated in this armor-plate project. The results seem to demonstrate that the steel made at this plant turned out badly. It was defective in many respects, and the expense of producing was so great that some two years ago the whole project was abandoned and the plant has not been used since, the department turning back to the commercial market to buy its ingots.

If such an experiment as this had proven a success, instead of the contrary, both from an economical and quality standpoint, there would be some warrant for extending the operations into the more difficult and intricate product which is required for armor plate. This failure of the Government, however, is not surprising when it is known that some of the oldest and most experienced steel makers frequently are unable to deliver goods up to the required standard; in fact, there is very much steel manufactured by those best qualified in such enterprises which, when tested, is rejected, and that is one of the elements in the cost of manufacturing armor plate. Very much of the product is rejected for that reason. A year and a half ago the Navy Department ordered 48 breechblocks and 48 screw box liners for 14-inch guns from the Pennsylvania Steel Co. This company had not previously manufactured this material, but it underbid those companies which had produced the product up to that time, and the Navy Department believed, I assume, that there was an opportunity to save money in giving the order to this company. Of these 48 sets of breech mechanism forgings, 25 have been taken from the contractor on account of delay incident to the work and given to the company which previously had the contract. Twelve of the remaining 23 sets have been delivered to the Government. The remaining 11 sets have not yet been tested and delivered, and the delay in delivering these parts has made it necessary to lay aside the other parts of guns which have been delivered to the Government waiting for the fulfillment of this order.

It should be remembered that although the Government has a large gun plant at the Washington Navy Yard in no case does it manufacture the parts that go into the gun; that it is simply an assembling plant where the tubes and other parts are obtained from manufacturers and put together to make the finished product. In no single case does the Government enter into the manufacture of the ingots or the parts, with the single exception, however, which occurs to me now, of a small experimental plant at the Watertown Arsenal; but that is very largely for the instruction of our own officers in the testing and examination which they must necessarily make of steel ingots sold to the Government.

The same general statement is true of the building of battleships in navy yards. Some years ago Hon. WILLIAM A. JONES, a Member of the House of Representatives from the first Virginia district, made an important demonstration of the cost of constructing battleships at navy yards, basing his statements on a report made by Admiral Watt, the chief constructor, under date of February, 1913. The difficulty in making comparisons in all such cases between the cost of construction at private and Government yards is that very many of the items which go into the cost are not so segregated in Government operations that the actual cost can be determined. For example, based on Admiral Watt's figures given at that time, the ships of the present Navy would have cost the American people $70,000,000 in excess of the figure at which they were built if they had all been constructed in navy yards. Some of the items which are not considered at all in figuring Government costs are: First, depreciation of outfit; second, insurance carried by the private builders, which benefits the Government; third, cost of trials; fourth, value of repairs made at the contractor's expense during the guaranty period; fifth, value to the Government of taxes paid by private shipyards; sixth, salaries of classified employees; seventh, leave and holidays of men and disabled pay; eighth, decrease in the amount of indirect charges in navy-yard building, all of which items would amount, in the building of a dreadnaught, to as much as $1,297,000.

The statement made by Admiral Watt that the present Navy would have cost seventy millions more than it has if it had been constructed in navy yards instead of private yards is based on a table furnished by him at that time, which includes nine ships built at the navy yards at New York, Mare Island, and Norfolk.

The matter referred to is as follows:

COST OF PRODUCING ARMOR PLATE UNDER VARIOUS CONDITIONS.

The production cost of armor with shop operating at full capacity has been determined as follows:

Report of Niles Board, House Document No. 193, Fifty-ninth Congress, second session, $244.27 per ton.

Report of Tillman Board, House Document No. 1620, Sixty-third Congress, third session, $262.79 per ton.

(The later report reflects advances in cost of labor and material and is quite consistent with the earlier report, considering the differences in the dates at which they were made.)

With plant operating at less than full capacity, the Niles Board found that the cost would be increased as follows:

Plant operating at half capacity, cost would be increased 20 per cent.

Plant operating at one-third capacity, cost would be increased 30 per cent.

These reports give mere shop cost and do not contain many items that enter into the actual total cost, such as administrative and general expense, insurance and taxes, interest on plant investment and working capital, etc., and in the following tabulation is shown the effect of the addition of some of these very real and important items. The depreciation of the plant, although a real addition to the cost, is not included below, as it is shown that prices actually received by the manufacturers has not been sufficient to allow anything for this purpose.

1	2	3	4
	Cost per ton with plant provided with sufficient contract tonnage to operate at full capacity (10,000 tons). (This is a condition that has never been maintained.)	Cost per ton with plant provided with only sufficient tonnage to operate at one-third capacity. (This approximately represents actual average conditions that have obtained.)	Cost per ton with plant provided with sufficient tonnage to operate at two-thirds capacity. (This condition might obtain as a result of the proposed 5-year program.)
Production cost, plant operating at full capacity (Tillman report)	$262.79	$262.79	$262.79
Add for plant operating one-third capacity, 30 per cent (Niles report)	.....	79.60	.....
Add for plant operating two-thirds capacity, 10 per cent (taken proportionately from Niles report figures)	.....	.....	26.28
Total production cost	262.79	342.39	289.07
Administrative and general expense ($100,000 per year)	10.00	30.00	15.00
Taxes and insurance ($45,000 per year)	4.50	13.50	6.75
Interest at only 5 per cent on $7,100,000 plant ($355,000 per year)	35.50	106.50	53.25
Interest at only 5 per cent on $500,000 working capital ($25,000 per year)	2.50	7.50	3.75
Total	315.29	499.89	367.82

If the contracts awarded in the future should be in the same average quantities as in the past (namely, 3,280 tons per year, or about one-third our plant capacity), the present price of $425 per ton would provide as follows:

		Per ton.
Contract price		$425.00
Less—		
Production cost (column No. 3)	$342.39	
Administrative and general (column No. 3)	30.00	
Taxes and insurance (column No. 3)	13.50	
		385.89
Leaving for interest on investment		39.11

With contracts for 3,280 tons, this would provide only $128,280.80 per year, or less than 1¾ per cent on the investment, without any provision whatever for repayment of the capital invested in the plant when it may have to be abandoned, owing to the building of a Government plant or some radical change in the method of manufacture.

Navy yard built—	Cost about—	More than—
Connecticut	$374,000	Louisiana, a sister vessel, built by contract.
Florida	2,269,000	Utah, a sister vessel, built by contract.
Jupiter	590,000	Cyclops, a sister vessel, built by contract.
New York	1,463,000	Texas, a sister vessel, building by contract.
Cincinnati	770,000	Formal proposals received for their construction.
Raleigh	714,000	Formal proposals received for their construction.
Maine	780,000	Limit of cost inside which it is estimated that vessels could have been contracted for.
Texas	449,000	Limit of cost inside which it is estimated that vessels could have been contracted for.
Vestal	250,000	The average of informal estimates received from three shipbuilding companies. (See p. 359, Secretary of the Navy's hearing, Jan. 12, 1911.)
Prometheus	140,000	The average of informal estimates received from three shipbuilding companies. (See p. 359, Secretary of the Navy's hearing, Jan. 12, 1911.)
Total	7,799,000	

Mr. WEEKS. It must be remembered, too, that the Congress is constantly called on to furnish additional equipment for navy yards. The Senate has only recently adopted a proposition appropriating over $500,000 for two of the yards which are to construct battleships under bids recently submitted. Again it must be remembered that in such cases bids are submitted by private contractors under specifications prepared by the department, and they are responsible for the results which they must obtain. In the case of navy yards the bids are simply estimates; and if they are not sufficient to build the ship, then an additional appropriation is made by Congress for its completion.

Furthermore, our experience with the building of ships at navy yards is full of instances of delays which would not be occasioned at any other place. At this time, when whatever preparedness is agreed upon should be hastened as rapidly as possible, we have not even commenced the two battleships that were authorized last year; and if anyone who has curiosity enough to do so will take the department's figures on the state of completion of ships under construction at navy yards and private yards under exactly the same conditions, they will find in every case, as far as my observation goes, that the navy yard is behind the private builder and in some cases very materially so.

The suggestion which I have made that the navy-yard figures are estimates and not bids is demonstrated in the case of battleships *43* and *44*. The price bid for the ship built at Mare Island was $7,413,000 and for the ship to be built at the New York yard $7,069,000. The actual cost to the Government will really be, when all of the items which should be properly charged to the construction are taken into consideration, in the case of the Mare Island ship $8,827,000 and in the case of the ship built at the New York yard $8,572,000.

Incidentally an estimate came from the Philadelphia yard which was something like $500,000 less than either of these bids; and yet that was not accepted, because it was known in that case that the estimate could not possibly cover the cost of the battleship. The actual cost to the Government will really be ascertained when all of the items which should be properly charged to the construction are taken into consideration. In the case of the Mare Island yard, adding the amount which I have itemized as a part of the basis of cost of the battleship, the ship built there will cost $8,827,000 and in the case of the ship built at the New York yard $8,572,000, both of which figures are materially more than the bids made by the private corporations who wished to undertake the work.

Furthermore, it would seem to be demonstrated that the repairs required on Government-built ships were materially greater than on ships built at private yards. For example, take the case of the *Connecticut* and *Louisiana*. The former was built at the New York Navy Yard and the *Louisiana* was built by the Newport News Shipbuilding & Dry Dock Co. The repairs on the *Connecticut* during the first nine years of her service were $917,000, while those on the *Louisiana* were $885,000. In the case of the *Florida* and the *Utah*, during three years of their service—the *Florida* having been built at the New York Navy Yard and the *Utah* at the New York Shipbuilding Co. plant—the expense of repairs on the *Florida* were $151,000, while they were $95,000 on the *Utah*.

On page 98 of the report of the committee to investigate the cost of armor plate for the United States, the chairman, Mr. TILLMAN, used the following language:

> Now, we want you to open up and tell us all about this matter, because you realize that if the Government enters into its own armor manufacture itself it will destroy your business in that respect, at least.

Now, as a result of the hearings, the committee reports in favor of spending $11,000,000 to construct a plant for that purpose. In other words, we are now considering a proposition which the chairman of the committee himself stated will mean the destruction of $20,000,000 to $30,000,000 of property of American citizens, or compelling them to change their property into some other form to be used for some other purpose. It is my purpose to discuss, first, the unfairness of such a proposition; second, to indicate my belief that it will not lower the cost of manufacturing armor for the Government, but rather increase it; and, third, in my judgment the Government should, instead of destroying the property of its citizens, enter into cooperation with them, determining a policy on which can be asked a reasonable profit, which itself shall be based on the probable cost for an output to be continued through a term of years.

Mr. HITCHCOCK. Has the Senator finished that part of his address concerning the success of Government manufacture? I notice that he is proceeding now to something else.

Mr. WEEKS. I will come back to that, if the Senator will be patient.

Mr. HITCHCOCK. I was going to ask the Senator whether he has considered the success which the Government has had in the manufacture of powder?

Mr. WEEKS. Yes.

Mr. HITCHCOCK. Is it not a fact that the Government has demonstrated that it can manufacture powder at a price materially below any price at which it could buy the powder?

Mr. WEEKS. If the Senator had been here when I commenced my remarks he would have learned that I do not oppose having a national establishment, as we have done in the case of manufacturing powder, which manufactures a very small percentage of the powder that would be required if we had any considerable army in the field. In fact, I have some figures here, which I will read later, showing that we would have to depend on private production for more than 95 per cent of the powder which we would necessarily use if we had an army in the field as large as the army contemplated in the preparedness plan now before the Senate.

Mr. HITCHCOCK. The proposition I understood the Senator was attempting to maintain was that the Government could not manufacture the material which it needs in war as cheaply as if it purchased it. The proposition I make is that in the manufacture of powder it has been conclusively demonstrated that the Government can manufacture powder for much less than it can buy it, and that the Government manufacture of a part of the powder has resulted in compelling the private manufacturers to reduce their price to the Government. There is not any question about that fact.

Mr. WEEKS. I think as far as the manufacture of powder by the Government is concerned the prices are lower than they were when the Government established its plant.

Mr. HITCHCOCK. Is it not a fact that since the time the Government began manufacturing powder the cost of powder in the Government plant has at all times been lower than the cost of that which the Government at the same time has been buying?

Mr. WEEKS. I have not looked over the figures. Quite likely they are made up exactly as the figures which I have been reading, for I think probably they do not take into consideration all of the elements that should go into the cost. The Government does not make up its figures in that way. Before I make any admission on that proposition I should want to examine every element that goes into the cost of manufacture.

Mr. HITCHCOCK. Is it not a fact that when the Government began the manufacture of its own powder it was paying nearly $1 a pound to the manufacturer, and at the present time it is paying less than 50 cents a pound, and that the price has been reduced year by year as the Government has demonstrated in its own powder factory the cost of the powder?

Mr. WEEKS. I have not the figures before me.

Mr. SWANSON. If the Senator will permit me, the Government paid 80 cents a pound. Then the Government went into the manufacture of powder and it was brought down to about 37 cents a pound, and Congress fixed the price at 53 cents a pound.

Mr. SMOOT. But before 53 cents a pound was fixed we purchased powder at 65 cents. There was a reduction before the rate was fixed.

Mr. HITCHCOCK. I think the Senator from Virginia has correctly stated it. The price has been reduced from 80 cents a pound to 37 cents a pound, largely because of the fact that the Government has constructed its own powder factory and has produced a considerable portion of the powder which it is compelled to use.

Mr. LIPPITT. Mr. President——

Mr. WEEKS. Just a moment, please. I have not the figures of cost before me, and therefore I am not in a position to reply, except to make the suggestion that the manufacture of powder is a piffling manufacturing operation in the scientific details required compared with the manufacture of armor plate. More than that, if a profit in the manufacture of powder comparable to what the Senator intimates exists, I can not see why other manufacturers do not go into the business, because the average manufacturing business shows no such return on the capital invested. I yield to the Senator from Rhode Island.

Mr. LIPPITT. I was only going to call the attention of the Senator from Nebraska to the fact that when he talks about the price of 80 cents for powder, he is talking about the cost of smokeless powder, in the infancy of its production. Smokeless powder is the powder to which that price was applied, and it was applied when smokeless powder was first discovered. Naturally in the course of the manufacture of a new article methods of economy are discovered and put into operation. I think if the Senator will investigate that subject he will find that the price went on down in connection with that article. I should like to ask the Senator——

Mr. HITCHCOCK. Let me answer right here. I will say to the Senator that I did investigate it. When in the lower House at the same time when the Senator from Massachusetts [Mr. WEEKS] was a Representative in the lower House, I was the author of an amendment providing $250,000 in the naval appropriation bill which doubled the capacity of the powder plant at Indianhead. The House accepted that amendment because it was demonstrated beyond a doubt that the Government by manufacturing its own powder was not only securing it cheaper than any of the powder companies were willing to offer it for, but by manufacturing it it was able from year to year to compel those companies to reduce their prices to the Government. Millions of dollars have been saved to the Government of the United States by itself undertaking the manufacture of the powder.

Mr. WEEKS. The proposition which the Senator from Nebraska advances is not comparable in any degree to this. In that case, as he states himself, there were a number of manufacturers, there was competition, and undoubtedly if there were any such profits obtainable others would have gone into the business. I should want to examine with great care all the items which should be included in the cost of manufacturing powder at Indianhead or at any other place before I would admit that it could be manufactured cheaper than in private operations.

Leaving out other considerations, what folly it is to destroy the usefulness of large manufacturing plants which are capable of manufacturing twice the requirements of the Government and constructing a new plant which presumably will be sufficient for that purpose, so that in effect we will have in the United States a capacity three times as great as our requirements. No manufacturing business can produce a low cost unless it is run at substantially its full capacity. There are practically no manufacturing industries in the United States that can make any profit running two-thirds their capacity, and I do not know any manufacturing business that can make a profit running at one-half of its capacity; yet we are deliberately proposing to add to a capacity which is now twice our requirements another unit one-half as great as our present plant capacity which, if these plants are to be in competition, will make it absolutely impossible to produce profitable results in this particular industry.

I have read with a great deal of care the hearings which were given by the committee last year, and while I have no knowledge of armor-plate making, none of the plants involved being in the section of the country which I in part represent, and have no other interests than to hope that this Government will not become involved in manufacturing industries in competition with its own citizens, I can not help deprecating the tone used in dealing with the witnesses which came before the committee. These witnesses, representing the plants now equipped to manufacture armor, declined to expose the cost of manufacture unless the information was to be considered confidential. In taking that course they were undoubtedly within their rights, because no manufacturer, under any law of the United States, is required to take such action. One of the witnesses testified that he believed his plant had developed processes or methods which enable them to manufacture somewhat cheaper than his rivals, and yet it was insisted that he should expose those processes, which are a part of the stock and trade of the company, not only for the benefit of the committee but for the benefit of the public. It would not only be exposing the company's methods to their competitors in the United States but to European competitors—an entirely unjustified demand. The Trade Commission, under laws which are now on the statute books, has the right to go into these plants and make examinations, if it is considered confidential, so that if this committee had really desired the information, in order to guide its own action in coming to a conclusion, it could have obtained it in that way. Furthermore, the witnesses to whom I have referred testified that they were in competition and that there was no combine or agreement or understanding between them. It is a little humiliating when men, who I assume are reputable and responsible, are interrogated as these witnesses were in this manner. Let me quote the character of this interrogation to which I have referred. On page 52 of the report the chairman said:

> I am referring to the loss which would accrue to the companies if the Government went into the manufacture of armor, and therefore they would be a dead loss to you if the Government should go into the manufacture of its own armor. The Government is helpless, so far as the price of armor is concerned, when there are only three makers of it and they are working in combination, charging whatever price they agree upon.

Mr. Dinkey, who was representing the Carnegie Steel Co., answered:

> Mr. DINKEY. The three are not in collusion.
> The CHAIRMAN. You say so, but we think they are. I hope you are telling the truth.
> Mr. DINKEY. I can tell you now they are not in collusion, and I do not know how I can make you believe that I am telling you the truth.
> The CHAIRMAN. The fact that Carnegie did not get any of this last contract would indicate that somehow or other the cogs had slipped and the machine did not work well. Do you know just why you did not get it? Are you willing to tell?
> Mr. DINKEY. I tried hard enough to get it, but could not. I tried to meet the Secretary's views, and I did revise my bids after he asked us to, and I did not make them sufficiently low I imagine.
> Mr. PADGETT. Upon that question, however, the contract was awarded to the other two with the stipulation that they could sublet part of the contract, and you are not out of the game yet.
> Mr. DINKEY. The deliveries required are faster than the plants that have the contracts will be able to make them.
> The CHAIRMAN. Therefore they will have to come to you, because you are the only other man that can help them out. Don't you see that you have got the Government in your power?
> Mr. DINKEY. I do not think I have.
> The CHAIRMAN. If the Government can only get from certain factories its armor, and nobody else can supply it, it seems to me that the Government is utterly helpless.
> Mr. DINKEY. Look at the other side. These tools are useful only for Government work. If the Government does not buy they stand idle.

Could there be a more humiliating position in which to place a citizen who has made large investments in a business to produce what is entirely controlled by the Government than to have his word questioned even after he has made a positive statement? The collusion scheme, to the minds of the questioners, did not work well, as evidenced by the suggestion that a great manufacturer was not out of the game, because it would be necessary for the contractor to turn to him to assist in carrying out a contract. I maintain that the tone of this colloquy is entirely unfair and should be sufficient to prejudice the case in favor of those presumably honest citizens engaged in this great industry who have been obliged to submit to such charges or suggestions.

There is another view to take of this situation, and it relates to what we are hearing so much about these days with reference to the development of our foreign trade. Every country which maintains a navy, with the exception of Japan, purchases its armor plate from private manufacturers and, as far as possible, from those located in the country making the purchase. Japan constructed a Government armor plant for the very good reason that there were no private citizens in Japan who would undertake the investment of such large sums of money in such an uncertain and hazardous business. In the case of most large countries, like England and Germany, all of the armor plate used by their Governments is manufactured within their borders; some countries, and especially Great Britain, manufacture a considerable amount for others; in fact, the larger part of the warship building of the world not conducted in local yards is done in England, English builders getting the benefit of supplying the armor for such ships. In only one instance have we built a considerable warship for a foreign country, that was the Argentine battleship which was recently turned over to that Government. It is perfectly apparent that unless we leave private manufacturers in the United States in condition to work their plants at a living profit they will lose the possibility of manufacturing for men-of-war, because no foreign Government would submit to the use of armor on its vessels which was made by plants controlled by other Governments; it is only the private manufacturers who can possibly fill such a demand, and therefore on the passage of this bill rests the possibility of our manufacturers building a considerable number of foreign battleships in the future.

As an indication of the lack of real information bearing on this subject, I wish to call attention to a letter which I had from the Secretary of the Navy. On December 16 I wrote asking for some figures relating to the cost of labor in this country and abroad in similar plants. January 11, very nearly four weeks

after, I received a reply, giving the base figures which have been paid for armor in this country, which are contained in the report of the committee, and this additional information:

The wages of mechanics at United States navy yards is determined by a board of naval officers and based upon the wages paid for similar services in the vicinity of the yard—

Which, of course, is the general practice.

The average per capita wage paid during the last 10 years is not available.

I have no official information as to the prices paid by other Governments.

That is all the information I could get from the Navy Department, either in reference to this country or countries abroad, on an important item relating to the cost of manufacturing armor plate.

Mr. President, I now wish to take up somewhat more fully the question of cost. In my judgment, no suitable examination has ever been made by anyone relating to the cost of the manufacture of armor plate. I have suggested that a manufacturing plant working two-thirds of the time could seldom make any considerable profit, and that working one-half time it practically could not make any profit. Yet these armor plants have only had an average order for the last 16 years of 12,000 tons a year. Their capacity is 30,000 tons a year. In other words, they have been working two-fifths of their capacity, and I very much doubt if there is a Senator here who can cite a single instance of a manufacturing plant that can make any profit working at two-fifths its capacity.

To show what differences result from such conditions, let me take some ordinary manufacturing cases. There is always a reduction in profit and an increase in cost when a plant is working less than its full capacity. That is one of the matters on which the committee's report gives us no information. It simply assumes that the manufacture is to be done under the best conditions, under every circumstance, the plant working at its full capacity.

The average profit made in manufacturing shoes in the United States, for example, is 7 cents a pair, as nearly as the information can be obtained, if the plants are working at their full capacity; but if the plants are working at three-quarters of their capacity the average profit is reduced from 7 to 2 cents a pair; and if the plants are working at half their capacity the profit disappears, and the average plant in the United States shows a loss as a result of its operations.

I have taken several instances of manufacturing woolen and worsted goods to indicate the increase in the cost when the plant is working less than its full capacity. Top making, worsted spinning, worsted weaving, worsted finishing, cotton spinning and dyeing and finishing cotton cloths are included in this estimate. The average increase in the cost in instances where the plants are working three-fourths time is 15 per cent. Where the plants are working one-half the time the average increase in cost is 33 per cent. Where they are working one-quarter of the time the average increase in cost is 87 per cent. Where working two-fifths time, as these armor plants, the average increase in cost would not be very far from 50 per cent. The exact figures I can not estimate. I could take any number of similar instances, as, for instance, this example of a cotton mill, to demonstrate the correctness of my theory. I have here the case of a mill, the figures concerning it having been furnished me. It had a capitalization of a million and a half. It operated 135,000 spindles. Running full time it produced 30,000,000 yards of colored cotton goods in six months. The net earnings, based on the actual results of this operation, were one-sixteenth of a cent a pound, or $20,200 profit for six months. If this mill had been forced to curtail its production by shutting down for one-fourth of the time, its production would have been reduced to 23,000,000 yards, which reduction, combined with the increased burden of fixed charges, would have changed the profit of one-sixteenth of a cent per yard into a loss of four-tenths of a cent a yard, or an actual loss for the six months' manufacturing of $93,600.

I could fill the RECORD with instances to justify the correctness of the statement which I have made relating to the returns which are obtained in manufacturing plants that are run at less than their full capacity.

Mr. MARTINE of New Jersey. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New Jersey?

Mr. WEEKS. I simply wanted to finish my sentence. I now yield for a question, Mr. President.

Mr. MARTINE of New Jersey. I want to ask the Senator from Massachusetts a question. My question is whether he does not think former Senator Beveridge is pretty good authority?

Mr. WEEKS. Oh, no, Mr. President; I can not make any such admission.

Mr. MARTINE of New Jersey. I will ask the Senator, then, who might be good authority? Will the Senator permit me to merely interject the particular clipping which I hold in my hand, which bears upon the subject?

Mr. WEEKS. Mr. President, I shall have to object until I have examined the clipping and examine the facts connected with it.

Mr. MARTINE of New Jersey. I will bide my time, then, and I will read the clipping at some later date, presenting the views of the distinguished ex-Senator Beveridge, wherein he takes quite the contrary position to that taken by the Senator from Massachusetts.

Mr. WEEKS. The Senator is quite within his rights to bide his time.

Mr. BRANDEGEE. Mr. President, will the Senator from Massachusetts let me ask him whether there was any evidence before the Committee on Naval Affairs in this inquiry as to what the profit had been by these armor-plate factories, or the amount invested in that department of their plant which was devoted to the manufacture of armor plate?

Mr. WEEKS. Mr. President, there were some questions relating to this particular subject, but they are all dependent upon the question of cost, and, in my judgment, no suitable examination has ever been made by anyone relating to the cost of the manufacture of armor plate. There have been theories and suppositions and declarations; but as to getting down to an actual examination of the books of a concern to determine what the actual cost is, I think it has never been done.

Mr. BRANDEGEE. Of course the companies themselves know what their manufacturing cost is, I assume?

Mr. WEEKS. They do.

Mr. BRANDEGEE. But they decline to make that public?

Mr. WEEKS. They did offer to give that information to the committee, and the committee has a right to go and get that information under the law providing for the Federal Trade Commission. They object, however, to having that information made public.

Mr. BRANDEGEE. That was my assertion—that they decline to make it public, and, in my opinion, wisely and justifiably decline to do so for the reasons stated by the Senator from Massachusetts; but if they know their cost of production—and I assume they could get it from their own books——

Mr. WEEKS. Undoubtedly.

Mr. BRANDEGEE. If they know that cost, was there no evidence before the committee as to what they claimed their profits had been on the amount of capital invested?

Mr. WEEKS. I am going to take up the question of cost upon the basis of the committee report.

Mr. BRANDEGEE. I did not know but that they made some admission themselves as to how much or how little they had made.

Mr. SMOOT. Will the Senator from Massachusetts yield to me for a correction?

Mr. WEEKS. I yield to the Senator.

Mr. SMOOT. I stated that the price paid by the Government for powder before the appropriation bill of 1913–14 was 65 cents a pound. That was, as I recollected it; but I find that the Government pays 60 cents a pound. In the naval appropriation bill for the fiscal year 1913–14 this proviso was then adopted:

That no part of any money appropriated by this act shall be expended for the purchase of powder other than small-arms powder at a price in excess of 53 cents a pound.

Mr. LIPPITT. Mr. President——

Mr. WEEKS. I yield to the Senator from Rhode Island.

Mr. LIPPITT. I was only going to ask the Senator from Massachusetts if he did not accept the table which the makers of armor plate put into the hearings which were held before the Committee on Naval Affairs last January, a report of which is found on page 8, in which they give substantially the cost of making armor plate under various different conditions of operation? No doubt the Senator has examined those costs. Does he consider that they are all reliable or is he going to discuss that matter later?

Mr. WEEKS. Well, I am willing to take those costs as the basis of what I am about to say. Those costs are dependent on a plant running at its full capacity all the time and no deviation or estimate is made for the difference in results if a plant is run at only a portion of its capacity.

Mr. LIPPITT. The report to which I refer does deal with the plant running at full time, at two-thirds time, and at one-half time.

Mr. WEEKS. I have not those figures before me.

Mr. NORRIS. Mr. President, will the Senator from Massachusetts yield at this point?

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. Yes.

Mr. NORRIS. Does the Senator from Massachusetts contend that the armor-plate men have been losing money all these years?

Mr. WEEKS. Well, if they have been making money they are wizards.

Mr. NORRIS. I judge from the illustrations which the Senator has given us that he wants us to draw the comparison, which, it seems to me, must be drawn from them, that when they are running at half time the manufacturers must lose money. As he states that they have run only two-fifths of the time, it would therefore follow that they have been losing money all the time.

Mr. WEEKS. Mr. President, as I said, I base the estimate which I have made on other manufacturing business. I do not know about armor plate. I never have examined the books of an armor-plate manufacturer.

Mr. NORRIS. But the Senator has given us the illustrations, and I suppose the natural conclusion must follow, if the illustrations have any application, that they apply to armor-plate factories as well as to other factories.

Mr. WEEKS. I have given those illustrations as samples of the only comparisons that are available.

Mr. NORRIS. Does the Senator believe now that we ought to apply those illustrations, as he has given them to us, for that purpose? If we do so apply them, must we not conclude that on all the armor plate that we have ever bought the armor-plate people have lost money every time that it has sold us any armor plate?

Mr. WEEKS. Of course the Senator does not expect me to give an answer to that proposition without an examination of the books of an armor-plate maker. If I were going into the business I should provide myself with some real facts on what it costs to manufacture armor.

Mr. NORRIS. I have no doubt the Senator would; but the Senator has given us illustrations, for instance, of the manufacture of shoes, cotton cloth, and so forth.

Mr. WEEKS. Yes.

Mr. NORRIS. If we can apply that, as I suppose the Senator intends us to apply it, it would naturally follow, since the armor-plate people have been operating only two-fifths of the time, as the Senator says, that they must necessarily have lost money. If those illustrations mean anything, it seems to me that is what would be the logical conclusion.

Mr. SMITH of South Carolina. Mr. President——

Mr. WEEKS. Just a moment.

Those are the only comparisons that I can make; that is, about manufacturing plants as to which I am informed. If there are any others that would modify that conclusion I should be very glad to have them, but I am simply demonstrating, in a general way at least, that manufacturing at less than full capacity means an increased cost of production.

Mr. NORRIS. I do not think anybody would doubt that; but I can not understand why the Senator gives us these illustrations unless he expects us to apply them to the armor-plate business. If he does that, and if they be true, he has actually demonstrated that these people have been losing millions of dollars for the last 15 years, and so they would be bankrupt by this time, I should think.

Mr. WEEKS. When you stop to consider, Mr. President, that armor-plate manufacturing is only a very small percentage of the total business of these steel companies—I think perhaps not more than 3 per cent—it does not necessarily mean that they would be bankrupted, and yet I want once more to state that the conclusions which I have drawn are based on other businesses, and the only other businesses with which I am familiar.

Mr. LIPPITT. Will the Senator yield to me?

Mr. WEEKS. I will yield first to the Senator from South Carolina.

Mr. SMITH of South Carolina. I was interested in the comparison which the Senator from Massachusetts was drawing as to these manufacturing plants, and I want to ask him a question. I ask if the manufacturing of armor plate involves a different force of laborers and a different plant than does the ordinary production of other kinds of steel?

Mr. WEEKS. Mr. President, undoubtedly it requires a different plant and steel makers of the highest possible type. Quite likely a workman might go from one plant to another, but the plant itself is an entirely distinct proposition.

Mr. LIPPITT. Mr. President, if the Senator will allow me, on the question of profit, to which the Senator from Nebraska [Mr. NORRIS] has just referred, there is what to me is a very interesting statement of that upon page 9 of the hearings by Mr. Grace, who is the representative of the Bethlehem Co. He shows that if the money which he had invested in his armor plant and which was useless for any other purpose than for making armor plate, and had never been used for any other purpose than making armor, had been invested in an ordinary steel-producing plant and had earned 10 per cent profit, the profits he would have earned would have been as much as the entire gross receipts which he received from his armor plant per annum; in other words, his gross receipts from his armor plant per annum were $1,418,000, and the profits that he would have made if his money had been invested in any ordinary steel business would have been $1,400,000, or only $18,000 less than the total amount received from the Government for making armor. Now, all I know about the profits of these people is what is contained in this report, but if the statements in the report are correct, the armor-plate manufacturers certainly have been running their business at a remarkably low rate.

Mr. NORRIS. Mr. President, does not the testimony which the Senator has given from one of these people demonstrate, if it demonstrates anything, that there is an enormous profit in the general steel business? I do not understand that it demonstrates that they were running at a loss.

Mr. LIPPITT. I do not know what the Senator thinks an enormous profit. The enormous profit that Mr. Grace bases his figures on is a profit of 10 per cent.

Mr. NORRIS. He has simply said, then, that if he had invested his money in something else, in some other line of the steel business——

Mr. LIPPITT. In some other department of the steel business in which he was engaged.

Mr. NORRIS. Then, he would have made so much money out of it.

Mr. LIPPITT. He would have made as much money as the total receipts he had received annually from the Government.

Mr. NORRIS. That would seem to me to indicate that in the business of which he was speaking there was a wide field for immense profit, if he could make that much money out of it.

Mr. LIPPITT. The profit on which he bases these figures is stated as 10 per cent. If the Senator would take the report and read it, he would find that it is a very simple matter, only embracing three or four lines.

Mr. NORRIS. I should like to ask the Senator from Rhode Island, with the permission of the Senator from Massachusetts——

Mr. LIPPITT. I do not want to unduly take the time of the Senator from Massachusetts.

Mr. NORRIS. I am asking this question by permission of the Senator from Massachusetts, of course.

Mr. WEEKS. I yield to the Senator that he may ask a question of the Senator from Rhode Island.

Mr. NORRIS. Does the Senator from Rhode Island believe that the people who have their money invested in armor-plate factories are losing money in that business?

Mr. LIPPITT. My impression, after reading the report of the hearings very carefully, is that it is a very remarkable thing that these people have kept their plants in operation at all.

Mr. NORRIS. I presume they are very wealthy men, or they would have been bankrupt by this time.

Mr. LIPPITT. They are not very wealthy men.

Mr. NORRIS. Then, I can not see how they have continued in business all these years if they have lost money all the time.

Mr. LIPPITT. The owners of these plants consist of something like 500,000 citizens of the United States.

Mr. NORRIS. I do not see how these men, whether they are numerous or few, could continue to live if they have been losing money all the time, as the illustrations given would seem to indicate.

Mr. LIPPITT. The Senator has just had that question answered. It was answered by the statement of the Senator from Massachusetts, that the manufacture of armor is a very small part of their business. They were not living on this branch of the business; they were living on something else.

Mr. NORRIS. They were making a large profit on something else and losing on this. The Senator believes, then, that while they are losing on armor plate they are making enough in the general business in which they are engaged to compensate them for their losses and making a profit besides?

Mr. WEEKS. Mr. President, I think I shall have to go on with my remarks, although I will yield if the Senator desires to ask another question.

Mr. NORRIS. No; I will not interrupt the Senator further. He has been very courteous, and I will not encroach further on his time.

Mr. WEEKS. The estimate made by the committee as to the cost of manufacturing armor is $262.79 a ton. That may have been substantially——

Mr. NORRIS. Mr. President, if the Senator will permit me before he leaves the other subject, I will ask the question of him which I wanted to ask the Senator from Rhode Island. If the armor-plate people are losing money, does the Senator think that they would have objected when they were before the committee to telling the committee about the costs entering into the manufacture of armor plate?

Mr. WEEKS. I do not understand that they did object to giving the committee the costs provided they were not made public.

Mr. NORRIS. It would not hurt them to make them public if they were running at a loss. Their competitors certainly could not get any advantage out of that. If they were losing money, it would drive their competitors out of business, if it did anything.

Mr. WEEKS. There is a principle involved in a manufacturer being required to expose his business to his rivals in trade. No man can conduct a business successfully on any such basis as that, not only because of his rivals in this country but because of his rivals abroad. If he has a trade secret which enables him to save 1 per cent in the cost of manufacture, that is as much a part of his capital in the business as any other item connected with it.

Mr. SWANSON. Mr. President——

Mr. WEEKS. I yield to the Senator.

Mr. SWANSON. The Senator has remarked repeatedly that the offer was made to give these costs to the committee, if it would receive and treat the information as confidential. The committee took the position, which is a very proper one, that it was the agent of the Senate to ascertain the facts, form its conclusions, and report to the Senate, so that the Senate might act upon this matter. The Secretary of the Navy had taken the same position when he was directed to inquire into the matter. The Niles Board and other boards likewise took the position that they were agents of the Senate, and had no right to receive secret information. If the Senator, however, has read the hearings he will realize that the armor-plate people were not requested to disclose a single secret of the process of manufacture, but were merely asked to give a summary of what they thought the costs were, without the elements entering into the costs. That was all the committee asked.

Mr. WEEKS. I have read the hearings with great care, and I would suggest to the Senator from Virginia that receiving information in confidence by a committee is not at all an unusual thing to do. It is very frequently done for the protection of the Government, not only on our own account but in our rivalries with other countries. Even, however, if that were not so, the Senator from Virginia will admit that the Trade Commission can go into any one of these plants and make any kind of examination of the books of the company and furnish the information to the committee, provided it is kept, as the law requires, from the public.

Mr. SWANSON. What advantage would that be to the Senate when it has got to vote on this question, if the Senate could not ascertain the facts?

Mr. WEEKS. Mr. President, I have confidence enough in the Naval Committee to feel that if it were furnished with that information it would submit a price for the making of armor based on that information, instead of on a lot of surmises, which it has now done.

Mr. SWANSON. If the Senator will permit me, he has ridiculed the process by which the committee arrived at the figures given. I should like to have the Senator to suggest a better method for this Government to ascertain the cost of armor plate than it has adopted. It appointed a commission, known as the Niles Commission, composed of Admiral Niles, Capt. Walker McLean, and Capt. Simpson, experts on this question, who had been inspectors in armor plants, and knew everything about the making of armor. They made a report. A former Secretary of the Navy, Mr. Herbert, was also directed to get all the experts possible and to investigate this question, and he made a report. Admiral Straus is responsible for this report. He is the Government's authority on ordnance and armor. In addition, we asked the armor-plate makers to furnish us the information. Now, if the Senator can suggest a better and a more thorough way than the Government has employed to try to ascertain the true and fair cost of armor-plate making in this country, I should like to know of it.

Mr. WEEKS. I have already suggested it, Mr. President, by calling to his attention the fact that the Trade Commission can go and get accurate information on this particular subject, and then there would be no question about the base which you were using for the costs of armor.

Mr. SWANSON. But, as I understand, the Trade Commission is compelled to treat is as confidential.

Mr. WEEKS. Why, of course; and it should do so.

Mr. LIPPITT. If the Senator will pardon me, I should like to call to the attention of the Senator from Virginia the fact that he asked Mr. Grace, representing the Bethlehem Co., if he had any objection to a public accountant, properly authorized, going through his books, and Mr. Grace consented and said that he was willing to have that done. I will read the language. It is found on page 23 of the hearings:

> Senator SWANSON. Have you any objection to having a public accountant go through your books, and thus enabling this committee to see what your books show as to the cost of armor plate from 1887 to the present time?
>
> Mr. GRACE. I have no objection to a public accountant, properly authorized, and in whom we would both have confidence, being allowed to go over the situation.

I read this matter through, and I was surprised that the Senator from Virginia did not accept the proposition.

Mr. SWANSON. We are perfectly willing to accept it, and tried to get one, provided the information he obtained could be given to the Senate. We did not feel justified in saying that we reached conclusions on secret information. The trouble we have had all the time lies in the fact that they will never let any information we get from them be made public and be brought to the attention of the Senate.

Mr. LIPPITT. It seems to me the gentlemen were not very anxious to get this information. What these people object to is having the details of those costs presented to the public. As I understand, they do not object in this testimony, which I have read through very carefully, to having the net result of the total made public. In fact, they have repeatedly stated in the hearings—Mr. Grace stated over and over again that he accepted as a fair cost for making armor plate the report of the Niles Committee, to which the Senator from Virginia has already referred. Mr. Grace accepted those figures, and the representative of the other concern—the Midvale concern—accepted those figures. Using those Government figures as a basis, they go on and show the various conditions under which armor plate has been manufactured and the various modifications of those costs that must be made from those circumstances.

Mr. SWANSON. If the Senator will permit me, he stated that they were within 10 per cent, he thought, of the costs indicated on their books, but he would not say whether the 10 per cent was larger or smaller.

Mr. LIPPITT. Oh, I read the controversy between the Senator from Virginia and the representative of the company, and, without meaning to be at all disagreeable to the Senator, I thought the answer of the representative of the manufacturing company was a proper commercial answer. His statement was that the report of the Niles Committee represented the costs as nearly as he thought any investigation could represent them, and that he believed those costs were within 10 per cent, one way or the other, of the actual costs.

Mr. SWANSON. Mr. Grace's estimate of the accuracy of the work done by these committees is different from that of the Senator from Massachusetts. As I understand, the Senator from Rhode Island agrees with Mr. Grace that these men had done very good work, and that their estimate was accurate and wise.

Mr. LIPPITT. I do not know anything about the work that those men did. I have made no such statement. I have merely said that Mr. Grace and the representatives of the Midvale people and of the Bethlehem people were satisfied to accept the figures that the Senator from Virginia wanted to have accepted, and that, based on those figures, they show that they were making a profit of some 7 or 8 per cent on the business.

Mr. WEEKS. Now, Mr. President, I will go on.

The report of the committee indicates that a conclusion was reached that the production costs of the proposed plant, operating at full capacity, is $262.79 a ton. Now, if we add to that 15 per cent loss in running at three-quarters capacity, it would add $39.49 a ton, or $302 for the total cost. The Tillman report is on the basis of running at one-half its capacity. Adding 33 per cent would make the cost of the armor $350.38. Running at one-quarter of its capacity, it would make the cost of the armor $491.41. Running at one-third of its capacity, it would make the cost of the armor $419.79. Running at two-fifths of its capacity, it would make the cost of the armor $350.38. Then, taking the items for administration, and so forth, that are contained in the committee's report, $10 a ton for administration; taxes and insurance, $4.50 a ton; interest at 6 per cent, $42 a ton—of course no manufacturing plant would be established, based on a probable profit of 6 per cent, but I take those figures as they are given in the report—this, with the plant run at two-fifths of its capacity, would make the armor cost $406.88, and there is nothing charged for depreciation in that item. The depreciation would be easily $35 a ton on a plant of the cost of

the plants that are now in operation. So that, practically speaking, running at two-fifths of the capacity, unless there is a difference in this character of manufacture from that which obtains in most others, there could not have been any profit greater than a very small rate of interest on the investment; and, as stated in the report, one of the witnesses testified that if the money which had been invested in these plants had been put into bonds bearing 4 per cent interest, the companies would have been better off than they are under present conditions.

The low prices made by manufacturers are due to the fact that they know that if a Government plant is established it will run 24 hours a day, as is done at the gun factory, and that they will get only the business that is left. The same situation exists in the case of the cartridge-case factory, which now manufactures all of the Government cartridge cases, and no inquiries are made of private manufacturers. It was for that reason, among others, that the manufacturers decided to make a reduction of $30 per ton—a price, of course, based on the Government having a consistent naval program for a term of years.

It has been suggested in these hearings that naval officers are thoroughly competent to pass on all the details of steel manufacturing. I have no disposition to deprecate their qualifications, and yet I want to say that, in my judgment, no officer of the Navy has had any proper or suitable opportunity to learn the details of steel making. He has capacity to inspect a steel product under conditions which have been obtained from experience. He has, more than that, capacity to test the finished product; but all of these Government plants, like the gun plant at Washington Navy Yard, as I have stated, are simply building-up or assembling propositions, and are not engaged in the earlier stages of steel manufacturing.

No attempt has been made by the Navy Department to experiment with or to investigate the details of armor making. The tests made by the department are more severe each year. The manufacturers have been spurred on to get the best possible results, and Admiral Strauss testified that no attempt was made to advise armor manufacturers how to conduct their business. In fact, there is no testimony to show that any officers of our Navy have an intimate knowledge of the methods used in manufacturing steel for armor.

If the Government builds an armor plant, competition will, as a result, be destroyed. It can not be shut down and started up at will, because the development of a suitable force is a matter of months and years. So the building of a Government plant of the kind contemplated would be a willful destruction of twenty to thirty millions of invested capital. How can we expect citizens to engage in business for the Government under such circumstances if we are to establish such a course as a Government policy?

I am informed that large coast-defense guns and field-artillery guns for South and Central American Republics are now under construction in United States plants, and, as I have stated, at least in one case, the armor plate manufactured in one of our private plants was used in the construction of a South American battleship. If we make our armor in a Government plant, the extension of this business will be impossible. The European countries which, before the present war, placed their orders for armament with German and Austrian manufacturers, have found it impossible to obtain delivery, even if they had not taken sides with the allies. I am told that one Balkan country which might become engaged in war on the side of the allies, would have done so before this if all of its armament had not been furnished by Germany and it would be necessary to practically reequip itself with guns and ammunition in order to keep itself supplied. The same would be true of the countries that have taken the side of the central powers, which had heretofore purchased their armament from England and France. Our own Government has in the past placed orders for submarine mines and other material with England, but now finds that it is impossible to have it delivered. All of which goes to show that the South American and Central American Republics, which can not now obtain their war material, would naturally turn to this country for their supply.

No European country has undertaken to manufacture armor plate on its own account. Germany, perhaps, of all countries now engaged in war, has most completely demonstrated its thorough preparedness; and yet private manufacturers produce absolutely all the war material used by Germany. There is no Government gun plant, no Government armor-plate plant, or plant for the manufacture of any other war material, and the countries which are opposed to the central powers which have in the past not completely developed their private enterprises are now doing their utmost to overcome this lack of foresight by building up their capacity to provide for themselves.

Everyone knows that the retreat of the entire Russian Army on the east front was largely due to lack of ammunition and the incapacity of Russian manufacturers to produce it. In fact, this whole proposition, instead of being one for preparedness, is one to cripple the most fundamental condition connected with preparedness. We can not hope to maintain an army in time of peace sufficient for our war needs; neither can we hope to manufacture ammunition or to have a Government plant sufficient to manufacture our ammuniton needed in time of war.

Gen. Crozier, who during a long and distinguished service has demonstrated his knowledge and capacity in connection with such a subject, testified before the Military Committee that a plant large enough to furnish all the ammunition needed by an army of 1,000,000 men would require a plant costing $400,000,000. What we should do in such cases is to cooperate with private manufacturers, provide them with sufficient orders to enable them to retain superintendents and other leading men in their plants, so that in case of need they can promptly turn from the peaceful operations which they are conducting to the manufacture of supplies for the Government.

One of the most interesting developments during this war has been the accomplishments of our manufacturers in connection with munitions of war. It is a reassuring development, because it gives an idea of what might be the result in case we required their assistance. The Government statistics of war materials exported to Europe during the past year show the spontaneous and adequate manner in which our privately owned manufacturing plants have been able to meet the emergency and turn their energies from the production of domestic articles to that of the necessaries of war. The most striking instance of this development is to be found in the production and exportation of gunpowder. In November, 1914, according to the reports of the Department of Commerce, we exported only $23,037 worth of gunpowder, while in November of last year the industry had been developed to such an extent that we were able to export $16,730,384 worth of this prime necessity of defense. The increase in explosives production and exportation was almost as notable, the exportation in November, 1915, having a value of $13,495,527 as compared with only $78,062 in November, 1914. The monthly exportation of aeroplanes developed from $31,935 in November, 1914, to $298,706 in November of last year. The total exportation of war materials in November, 1915, was valued at $53,009,024, as compared with only $14,923,105 for November, 1914, an increase of $38,085,919, or an increase of about 250 per cent. The total exportation of war materials during the single month of November just past—$53,009,024—was almost equal to the war exportation for the entire year of 1914—$54,965,113 from December 1, 1913, to November 30, 1914. Altogether these figures are convincing evidence of the ability of privately owned manufacturing plants to turn from the demands of peace to the demands of war and cope with either situation in an adequate manner. If these same concerns could be encouraged by the Federal Government to maintain their plants at or near their present state of efficiency through the parceling out of Government orders in time of peace, I believe we would go a long way toward meeting the question of preparedness. Industrial preparedness is an extremely important unit of the entire question, and I think our industrial world has convincingly shown its ability to meet the emergency if proper cooperation is forthcoming from the Federal Government.

I ask permission to include, Mr. President, a table showing the changes in the exportation of war materials during the past year.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Without objection, it will be so ordered.

The matter referred to is as follows:

Total monthly exportations of all war materials from December, 1914, to November 30, 1915, compared with those of the previous year (1913–14).

	1915–1914	1914–1913	Increase.
December, 1914	$20,550,682	$3,341,207	$17,209,495
January, 1915	20,163,660	2,300,145	17,863,515
February, 1915	21,785,976	2,438,851	18,347,125
March, 1915	22,192,541	3,449,607	18,742,934
April, 1915	23,766,472	3,764,202	20,002,270
May, 1915	28,694,062	2,902,040	25,792,022
June, 1915	36,936,970	2,921,989	34,044,971
July, 1915	43,976,744	2,970,242	41,706,402
August, 1915	35,509,457	1,861,543	33,647,914
September, 1915	40,661,560	3,898,667	36,762,893
October, 1915	44,796,165	10,193,424	34,602,741
November, 1915	53,009,024	14,923,105	38,085,919
Total	383,073,313	54,965,113	328,108,200

Mr. WEEKS. Although it is frequently stated that our armor costs have been extravagant, it is noticeable that they are lower than the costs of any other country using armor. In Japan the cost is $490 a ton; in Austria it is $511 a ton. I am reading from the reports for the past year. In Italy it is $405 a ton or $444 a ton for turret armor; in Germany it is $490 a ton; in France it is $460 a ton; in England it is $503 a ton; in the United States it is $425 a ton; in Russia it is $510 a ton for turret armor and $368 a ton for Krupp side armor. On the average the cost here is very materially less than the average for all other countries, something like $50 a ton.

Mr. LIPPITT. Less than in any other country.

Mr. WEEKS. Less than in any other country. Everyone knows that the general cost of manufacturing in every one of the countries with which I have made comparison is less than in the United States, and that in itself would be a sufficient reply to the general charge that we have been paying scandalously high prices for armor plate.

Every fact on record up to the present moment proves unmistakably that all the great naval powers have regarded armor plate as a specialty and not a commercial product in any sense of the term. England, the first naval power of the world, Germany, the best-equipped military nation on earth, never have deviated from a policy in which consultation with and cooperation between their Governments and the private steel makers has been a stable feature. More than ever since the outbreak of the European war has the wisdom of this policy been vindicated. England, called upon suddenly to expand her Navy to an unprecedented degree, turned to her armor-plate manufacturers and secured her supplies readily. More than a million tons have been added by Great Britain to her navy since the beginning of hostilities. It is noteworthy, however, that notwithstanding these rush orders the facilities of the private armor plants of Great Britain have been equal to all demands upon them, and the Government has not been compelled to go outside its own producers for a ton of armor plate. During much of this time the armor plants of the United States have been idle and could readily have filled foreign orders had they been proffered.

I would make the point at the outset that should the United States, unfortunately, be plunged into a war calling for the extreme of her military and naval resources the American plants would be able to turn out armor faster than it could be placed upon the ships that could be built within an equal period of time. Not only this, but the private armor plants contain within themselves the capacity of indefinite expansion of their manufacturing facilities. The legitimate dependence of the Government upon private manufacturers would not be eliminated should this bill succeed, for it must be borne in mind that the gigantic concerns which constructed the American armor plants were compelled to make their own machinery. It could not be bought elsewhere, so they had no option but to design and build it. Consequently, were a Government plant attempted, these same companies, which are unique in their manufacturing facilities, still would be drawn upon because of the massive and unusual nature of the tools required. These points seem to me important because this interdependence is natural, normal, and proper. The impropriety of the hour is the attempt to destroy this indispensable copartnership. Does anyone doubt that Great Britain and Germany are thanking God to-day for their private armor plants?

The main charges made by the Senator from South Carolina and adopted by him in support of his bill are that, as he puts it in his blunt way, the steel men are robbers, that their prices have been too high and their profits too large, and that the Government is helpless in the hands of their combination. Where the great foreign naval powers see helpfulness the Senator from South Carolina sees only helplessness. Where they have found cooperation, he finds a combination. Where they have placed efficiency above profits, even granting that profits have been unreasonable—which I do not grant—he sees only dollars. The Senator's charges are serious and if true might warrant a respectful consideration of this bill, although I am frank to say that for many other reasons than those relating to money, reasons having to do with scientific problems, a Government armor plant is inadvisable.

But, taking the argument for this bill right on its own ground, a little analysis of incontrovertible figures may be found enlightening. Up to the present time, according to the Secretary of the Navy, as quoted by the Senator from South Carolina, the Navy Department, since 1900, has paid $76,195,960 for armor plate. To this should be added the amount paid for armor plate up to 1900 since 1887, when the industry was established, $10,860,073. The total amount paid by the Government for armor plate, therefore, is $87,056,033. The average per annum over the 29 years of the life of the business is $3,001,932.17. The appraised value of the existing plants is between $20,000,000 and $30,000,000. Undoubtedly $30,000,000 have gone into the plants, and their reconstruction value would probably be about $25,000,000.

But these figures do not take into account the large expenditures, the extra cost made necessary by the three major changes of process in the art experienced during this time, and the machinery once useful, but, through the operation of these changes of process, rendered obsolete and thrown into the discard. The companies bore the total burden of expense necessitated by these changes. Thus the total expenditure for plant and equipment in this period closely approximates $30,000,000 instead of the twenty millions represented by the present-day valuation of the three plants.

Here we have an investment of about $30,000,000 of private capital in a plant useless for any other purpose than that for which it was built, yielding an apparent gross sales return of $3,001,932.17 annually. That is 15 per cent on an investment assuming that the entire investment has been in operation for two-thirds of the time since 1887. The first plant was constructed in 1887, the second plant about 1895 or 1896, as I recall it, and the third plant about 1904. So I think that is a fair assumption.

If this total sales return were gross profit, it would yield the companies only 10 per cent. This showing, however, meager as it is, fails to take into account money paid out for the thousands of tons of material, millions of dollars of wages paid to labor, expenditures for salaries, for administration, for interest, taxes, insurance, accounting, and so forth. So that the net profits to the companies can not be the unreasonable and exorbitant amounts imagined and charged by the Senator from South Carolina. I am content to set these facts against the uninformed statement of Secretary Herbert, so triumphantly quoted by the Senator from South Carolina in his report upon this bill. I would repeat, that the Senate may not lose the significance of this showing, that if the total returns from sales of armor plate were all profit they would pay only 10 per cent on the investment. A man need not be possessed of extraordinary business sense to understand that no sales of anything ever are all profit. I am compelled to say that the charges brought against the steel companies and used as a basis for this impracticable legislation are so extravagant that this proposal would not command a moment's respect in any business house or under any other circumstances than those created by the present administration. Are we not compelled to infer that the reasons back of this proposition have not been completely stated in the report made upon the bill?

Senators do not realize, because they do not know, how infinitesimally small in comparison with their total output the armor-plate production of the great steel companies is. It is freely charged that the manufacturers foster preparedness for the sake of possible profits, and it is popularly and commonly supposed that the manufacture of war material occupies so much of the space and equipment of these companies as to make it of prime importance to them that they continue in this line of manufacture. The three steel companies manufacturing armor in America have a total steel production of 12,100,000 tons per annum. They sell therefore 1,200 times as much of their other product elsewhere as the Government buys of them in armor plate; for against this more than 12,000,000 tons of total production it should be remembered that the Government buys only a pitiful 10,000 tons of armor plate a year. The most ambitious naval-building program this administration can conceive calls for only 24,000 tons a year, consequently should the Secretary of the Navy be permitted to carry out his plan—which to my mind is a very modest, if not an inadequate plan—the armor-plate makers in other parts of their plants would be turning out more than 500 times as much as they would sell to the Secretary of the Navy. These are pregnant figures.

It is proper to ask, however, if the question appears intelligent, why the makers of armor plate should be unwilling to be put out of business. No concern with an investment of $30,000,000, which is returning any profit at all, would willingly see that investment destroyed. I need not argue this fact with everyone, although I fear it is not fully appreciated by some of the advocates of this bill. It is true also that it is an advertisement of great practical value for an American steel company to be able to say that its facilities are such, its scientific knowledge is so great, it has so perfected the costly processes of steel manufacture that it can satisfy the demands of the Government of the United States for the finest armor plate that human ingenuity can devise or factory skill can produce.

The steel manufacturers are proud of their achievement, which has not been duplicated anywhere else in the world. I have no doubt that the widespread knowledge of their skill has brought them commercial business from all parts of the world. They have proved that American steel stands without an equal. It was their thorough knowledge of steel making, acquired by a generation of fundamental investigations and founded upon costly experiments, that enabled the American manufacturers, when their Government turned to them for aid, to supply its demands. There is no question, I think, on any hand that the armor which has been manufactured in this country is of the highest quality. Of course there are defects which appear in armor. There are defects which appear in any steel billets, and very much of that kind of product is thrown out; it is unavoidable. One of the reasons for the high cost of manufacturing armor is that it does require an article of such high quality that it is very difficult to obtain, and probably it would not be obtained under the methods here proposed.

Mr. LANE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Oregon?

Mr. WEEKS. I do.

Mr. LANE. There has been much question about the quality of the manufacture of armor plate. Some years ago the manufacturers were fined by the Government for furnishing an inferior quality of armor plate.

Mr. WEEKS. I think that statement about a fine is true; but if the Senator from Oregon will make an investigation he will find that the product of these armor-plate manufacturers has been quite as high as any other form of steel product. Of course there are defects which appear in armor. There are defects which appear in any steel billets, and very much of that kind of product is thrown out; it is unavoidable. One of the reasons for the high cost of manufacturing armor is that it does require an article of such high quality that it is very difficult to obtain, and probably it would not be obtained under the methods here proposed.

Mr. LANE. As I understand it, Mr. President, the type of armor now being manufactured, or which has been manufactured in the recent past, are armor plates designed to defeat the penetrating power of projectiles; that that type of armor is not being manufactured for the use of the navy of any other power in the world; and that they now build an armor plate to resist the power of explosives. I do not know whether that is true or not, but it is what I have understood.

Mr. WEEKS. Undoubtedly both kinds of armor are under consideration and tests are being made on both. I suggested at the beginning of my remarks that there were great changes in the requirements of the department, and that a much better quality of armor was undoubtedly being furnished to the Government to-day than was furnished 5, 10, or 20 years ago.

Using an expression in the committee report, it is "little short of scandalous" that a condition of controversy should exist or continue to exist between the Government and those who are manufacturing a product for the Government over what is really a very simple business proposition. It is not necessary to in any way attempt to deny, though it could easily be done, some of the extravagant statements which are made in the committee report relating to collusions, combinations, and so forth, to state this simple fact: The Government needs armor plate and there are three manufacturers prepared to furnish it, any one of whom can very nearly manufacture the entire requirement, and certainly any two of whom can more than furnish all that the Government needs or will need under the building program which is in contemplation.

The Government is obliged to purchase and the three manufacturers are likely to substantially agree on the price to be asked. Under those conditions the obviously sensible thing to do is for the Government to enter into a contract with these companies for a limited time, with a right of renewal on the part of the Government and with specified provisions for so doing, under which agreement the Government guarantees to take a minimum tonnage of armor and the companies agree to supply a maximum tonnage. The Government should guarantee to the companies a stated profit. Expert accounting has now become a science, so that profits can be determined with substantial accuracy. I am informed—although I believe it does not appear in the hearings—that the representatives of the companies appearing before the committee offered to permit expert accountants to examine their books and plant and report their actual cost, provided this information was not made public. No business man will fail to recognize the wisdom or the fairness of this proposition. To compel a business concern, especially one which is striving to lessen the cost of production and is employing experts of all kinds to bring about such a result, to expose its methods and its costs to its rivals, and especially its foreign rivals, is morally wrong and bad public policy. There is no difficulty in obtaining the actual facts about armor making in this country. Under our present laws the Trade Commission may go through any of the armor plants, or all of them, and obtain this information for the benefit of the Government, of course, without its being made public. Therefore, coming here without facts, as does this report, stating propositions based on theories or prejudices, and without actual knowledge, is unfair and unbusinesslike in the extreme.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Michigan?

Mr. WEEKS. I yield.

Mr. TOWNSEND. Do I understand that all these companies are manufacturing armor plate exclusively for the use of the United States?

Mr. WEEKS. Almost entirely so. They manufactured the armor for an Argentine battleship and they have made some small sales abroad.

Mr. TOWNSEND. Then, may I ask, what danger or what damage would come to this country if they make public their method of manufacture?

Mr. WEEKS. The danger would come because it would be giving the information to foreign manufacturers.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Minnesota?

Mr. WEEKS. I yield.

Mr. CLAPP. If the Senator will pardon me for a moment, I know he would not want to put this matter in any but the most accurate light.

Mr. WEEKS. That is what I am trying to do.

Mr. CLAPP. I do not think the manufacturers were ever asked to disclose the methods employed in making their plate. So far as my remembrance goes, whenever the question was raised while I was in the committee it related solely to the cost and not to the methods employed by the companies.

Mr. WEEKS. I wish to say that I did not find anything in the hearings which indicated that any question about methods had been asked, and if I so stated I was in error.

Mr. CLAPP. No; except the Senator did say it would not be wise to expose their methods.

Mr. WEEKS. I should have said the cost, and the methods would have been a part of the general proposition. I do not think they have been asked to expose their methods.

Mr. President, I am not excusing the steel companies for not giving the committee any information which it required, except that I do insist that it is bad public policy to expose a man's business to his rivals, and we provided in passing the Trade Commission act that the information which the Trade Commission obtained should not be made public.

Mr. TOWNSEND. I do not quite understand, Mr. President, how the rivals of these companies could injuriously affect them in the home market. Would the United States Government purchase abroad if it could not purchase in this country?

Mr. WEEKS. No; but we do sell some armor abroad. We have sold in three different instances to Russia. We sold armor to Argentina, and we are manufacturing guns for several South and Central American countries. That has not anything to do with armor, but while we are trying to develop business arrangements with South America, it seems to be inadvisable to attempt anything which will destroy the possibility of that trade. That is what I am trying to get at.

It is not necessary at this time to go into details as to the kind of contract to be made with these manufacturers—it is the kind of proposition which occurs every day in business life—but, in addition to what I have suggested, a provision might well be inserted in the contract for the purchase of the plant by the Government at an upset price. The Government might not desire to take advantage of this provision, but it should always be in position to avail itself of the possibility. It should not be forgotten that there is an abundance of capital available for investment where a reasonable return is certain. It is the quasi-speculative character of dealings with the Government that justifies and, indeed, compels the high prices so often demanded by manufacturers. If this element of uncertainty were removed there would be no difficulty in securing for the Government armor plate or any other supplies at reasonable commercial prices.

It is not therefore my purpose to suggest a contract in detail, but simply to indicate the relations which, in my opinion,

should exist between the Government and the armor manufacturers. It is a similar relation to that which should exist in all cases where the Government has dealings with its own citizens. To attack them, to attempt to destroy their business, and to put itself into competition with them is without precedent abroad and without excuse. Such a policy will bring nothing but disaster. It will, in the end, lose us our home markets and destroy at one blow the possibility of our invading foreign markets. If an administration attempting to carry out the general suggestion which I have made should be unable to do so, and it shall be clearly demonstrated that the failure is due to the unreasonable demands of those who are dealing directly with the Government in products which pertain to the national defense, which is not true in this case, then, and only then, should Congress consider the creation of a Government plant.

Mr. POINDEXTER obtained the floor.

Mr. SUTHERLAND. May I ask the Senator from Massachusetts a question?

Mr. POINDEXTER. I yield to the Senator from Utah for that purpose.

Mr. SUTHERLAND. I first wish to ask the Senator from Massachusetts if he can tell us, approximately, how much capital is now invested in these armor-plate manufacturing plants?

Mr. WEEKS. About $30,000,000 has been invested in the plants. They are carried at about $20,000,000; the testimony, I think, shows $21,000,000 in round numbers, and the replacement value is estimated at $25,000,000.

Mr. SUTHERLAND. So the bill proposes that the Government of the United States shall invest in this business what would be about one-fourth of all the capital now invested?

Mr. WEEKS. Eleven million dollars this bill provides. So it would be about one-half of the book value at present.

Mr. SUTHERLAND. One-third of the total?

Mr. WEEKS. Just about one-third of the total.

Mr. SUTHERLAND. What is the raw material that is utilized in the manufacture of armor plate?

Mr. WEEKS. Pig iron converted into steel and given special treatment for these particular purposes.

Mr. SUTHERLAND. What I want to get at is whether or not the ore from which the basic material is manufactured is treated in any different way to produce material suitable for the manufacture of armor plate than to produce material suitable for the manufacture of any other steel product.

Mr. WEEKS. I think the testimony shows that the quality of steel ingots that goes into armor plate must be of the very highest type, and that it requires great experience in order to develop the steel which is suitable for this purpose.

Mr. SUTHERLAND. If the Government should go into this business, it would be necessary for it to depend upon private capital to supply the basic material?

Mr. WEEKS. Up to this time the Government has done that in all of its munitions-manufacturing business.

Mr. SUTHERLAND. It is not proposed that the Government shall go into the business of smelting the ore and producing the basic material?

Mr. WEEKS. I understand it is the purpose of the Government to conduct the whole operation up to the finished product, though perhaps it would buy its pig iron from others.

Mr. SUTHERLAND. To begin with smelting the ore and going through?

Mr. WEEKS. Yes; that is my understanding.

I ask unanimous consent to include in my remarks an editorial from the Boston Herald, which has a general relation to the subject.

The PRESIDING OFFICER. Without objection, it will be included.

The matter referred to is as follows:

[Reprint from the Boston Herald, Saturday, Nov. 20, 1915.]

WHY THE PRIVATE YARDS LOST THE BIDS FOR NEW SHIPS.

The American public has just learned that the private shipyards which submitted competitive bids for the construction of battleships 63 and 64 failed to offer so low prices as the Government-owned yards. This must strike our readers as odd. They see the Government do little at a less expensive rate than privately owned concerns. How, then, does it happen that Uncle Sam is so successful in shipbuilding by contrast with private enterprise?

The answer involves a little explanation. The New York Navy Yard makes up its estimate by entering $745,357 for "overhead" charges. The private yards have found by experience that they must rate this factor at approximately $2,000,000. And there is no necromancy by which the United States gets away with it for one cent less. It simply does not need to charge it, because it has no responsibility for making ends meet. Let us look over the items that go to overhead charges and see how the two bidders, respectively, regard them.

Depreciation of plant in private yards for the three years in which a battleship would be building is a factor of undoubted consequence. The private yards ordinarily estimate 5 per cent per annum of the total building and machinery value for the period the ship is under construction. The Government enters nothing for this item. But does Uncle Sam buy machinery or building material at any less than do private yards? By no means. Is there, then, any reason why his depreciation should be rated at a lower figure or disregarded? Yes; there is one reason. Because the Government estimators do not have to come out square. They do not have to make a battleship carry all the charges of building a battleship, but may distribute the charge over the operations of sovereignty.

When a building or a machine wears out Congress appropriates money for new ones, instead of distributing the depreciation as a charge over the work as it is performed. The private yard must either maintain such a scrutiny or go into the bankruptcy court, and that is all there is to the astounding disparity which Secretary Daniels has uncovered. For it should be understood, first and last, that an entity which keeps no real accounts can always make a showing of effective competition with bidders who do comply with the hard conditions of actual business. Let us examine a few cases.

The private yard has to pay for its drawings and plans, and charges these costs direct against the ship where they belong. This, with a battleship, amounts to $250,000. The navy yards carry this in a separate appropriation, as one of the general charges of conducting a government, and never think of leveling it against the building of a particular ship. But we have to pay for it just the same.

The cost of clerks, timekeepers, and other minor officials comes out of this general expense of the Navy as a part of governmental sovereignty. In the case of the private shipbuilder these items amount to $125,000 during the construction of ships like those for which bids were recently invited. Government yards get their moderate bids by omitting such items altogether.

The salaries of officers detailed for duty in connection with the construction, Uncle Sam charges to the Navy payroll and not to the ship. These amount to $30,000 with Uncle Sam, and to quite a little more in private yards which regularly utilize, as competitive rivalry compels, a higher order of business talent.

The item of insurance and indemnity bonds amounts to $100,000 to a private company. But the Government does not worry about such things. It does not insure a battleship in construction, since if anything happens to it another appropriation from Congress will build a new one. Nor does it consider the liability of loss by fire, or otherwise, as a factor in its estimates.

The Government allows all employees in the navy yards sick leave, holidays, vacation, etc., during the year, and these are charged to a separate appropriation and not to item of labor on the particular job in question. These would amount to $350,000 in the construction of the ship. But any gratuities that the private yard gives in the way of vacations, holidays, etc., must be lodged in overhead charges and borne in the cost of the ship. The private shipbuilder allows in his estimate the sum of $100,000 for trials, but the navy yard completes and commissions its ships, and after the crew has become accustomed thereto, holds the trial, but the cost of it is charged against operation, and not construction. Thus the dice are loaded.

No Government yard carries any part of the burden of local taxation. The Charlestown Navy Yard, for example, makes no contribution in taxes toward the surfacing of Chelsea Street by its side, as a private establishment of the same size and value would do. And yet this street-repair cost must come out of the people in one form if not in another. Any private yard hereabouts would pay in municipal taxation in the construction of one battleship not less than $50,000. This would be the sum which would go to the municipal government for taxes on the plant and machinery thus represented during the years of construction. Even if we technically save this in building by the Government, the municipality loses it, and so must take it out of the people.

The private contractor takes a ship at a fixed price, and gets no more unless the purchaser orders some changes from the schedule. In the case of a Government-built ship the only limit is the total of the appropriation, and when that is gone Congress passes another appropriation to finish the job. That has been done not once but several times. In other words, the Government yard has absolutely no responsibility to live up to. If any material change in the prices of materials or of labor comes to pass, the Government simply uses up the money at hand and then asks for more. If a Government yard, on the other hand, completed a ship, even with all these advantages, at less than the bid, such an event would be heralded broadcast as a triumph of Government ownership. But such a contingency has never arisen in the history of Government shipbuilding.

Secretary Daniels a year ago made a ruling whereby certain indirect charges which had been borne on the ship should thereafter be carried on other accounts. This served to make the competition more difficult for the private yard, but in the long run Uncle Sam must pay in one form if not in another. Why should we as a people "fool ourselves" about these things? Why should we debate over what Government ownership means and question whether it pays or not? Only one experience ever goes on the records in postal operations or in shipbuilding or anything else.

Another big factor in the competition is the Government's total lack of responsibility for completing a ship within a prescribed time. But a private yard must measure all these things very minutely, for every day of delay costs it a penalty. Two private bidders in the case under review offered to construct either ship in 34 months. The Mare Island Yard offered to construct one in 31 months after receipt of structural material, the Philadelphia Navy Yard in 36 months after awarding of contract for structural material, and the New York Navy Yard in the same time as the Philadelphia. But if past performances carry any lesson, none of these Government yards has any intention of fulfilling its contract within the time limit which it proposes. These estimates by the navy yards as to time of completion are misleading, because they hinge on the delivery of structural steel, an entirely unknown quantity under present market conditions, and will result in at least a year's being added to the promised time of completion.

The colliers constructed at the Government's Mare Island Yard took nearly twice as long to build as did similar ships at the Maryland Steel Co., in Baltimore. The battleships *California*, *Mississippi*, and *Idaho*, for which contracts were let in 1914, afford examples of the contrast. The *Idaho*, building at the New York Shipbuilding Co. on November 1 was 45 per cent complete. The *Mississippi*, building at the Newport News Co., was 33.1 per cent complete. Now, see the difference. The *California*, building at the New York Navy Yard, had not been yet begun, nor had the materials which are to go into her been assembled. And yet a year has passed.

Last December the department let contracts for six torpedo-boat destroyers. *Nos.* 63 and 64, building at Fore River, were on November 1, 61.1 and 57.5 per cent, respectively, complete. *Nos.* 65 and 66, building at the Bath Iron Works, were at the same time 57.5 and 53.8 per cent complete. *No.* 67, building at Cramps, was 34.1 per cent complete.

Now, listen: And *No. 68*, building at Uncle Sam's Mare Island, was 12.5 per cent complete.

Perhaps Boston people will recall that in the municipal election here two years ago a supply ship which various politicians were attempting to secure for the Charlestown Navy Yard played a prominent part. In the end, when the contract was let, Mr. Curley, then a candidate for mayor, and every other Democratic politician in Boston at once claimed the honor of having brought it here. This ship is now but 31.1 per cent completed. At a private yard she would have been put into commission long ago. The same is true of a transport now building at the Philadelphia Navy Yard, which is only 36.1 per cent completed. Of the last four submarine contracts, three went to the Electric Boat Co. and one to the Portsmouth Navy Yard. On November 1, *L–9* was 86.4 per cent complete, *L–10* was 83.9 per cent complete, and *L–11* was 80.3 per cent complete. Now comes the other: *L–12*, at Uncle Sam's Portsmouth Yard, was but 56.2 per cent complete, and practically no work had been done on her engines, a long and costly undertaking. And yet in all these things time is of the highest importance.

Preparedness is in the air. Do we really want it? If so, we must abandon all this Government-ownership folly and trust to the enlightened efficiency of private enterprise under the spur of real competition. If we want a supply ship, we should build her under conditions of demonstrated capacity; if we want to provide wages and contracts under the conditions that professional politics decree, we should hug to Government ownership and pretend to believe that Secretary Daniels could actually get ships built more economically in Uncle Sam's own yards. But if we want truth and reality in this world of ours, we should dismiss these conclusions which Josephus reaches as the sheerest nonsense, unworthy of a moment's consideration by any intelligent human being.

During the delivery of Mr. WEEKS's speech,

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). The Senator from Massachusetts will desist for a moment. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

The PRESIDING OFFICER. The Senator from Massachusetts will proceed.

After the conclusion of Mr. WEEKS's speech,

PUGET SOUND NAVY YARD.

Mr. POINDEXTER. Mr. President, the other day, on the call of the calendar, the Senator from North Carolina [Mr. OVERMAN] objected to the consideration of the bill (S. 4505) appropriating money to equip Puget Sound Navy Yard for battleship construction. He has since informed me that he desires to withdraw his objection; and as it is a matter of pressing importance, I ask for the consideration of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

Mr. MYERS. Before I determine whether I shall object or not I will ask the Senator what the bill is?

Mr. POINDEXTER. It is a bill to equip the Puget Sound Navy Yard to build battleships.

Mr. MYERS. Will it lead to any debate?

Mr. POINDEXTER. I hope not. I think not. It is a matter which has been thoroughly considered by the Navy Department and by the committee.

Mr. MYERS. How long does the Senator think it will take?

Mr. POINDEXTER. I am asking unanimous consent for its consideration. It ought not to take more than a few moments.

Mr. MYERS. If the request is granted, in order to protect the parliamentary status of the unfinished business, I ask unanimous consent that the unfinished business may be temporarily laid aside only until the disposition of this bill, and not longer than one hour at the most.

The PRESIDING OFFICER. Is there objection to that course?

Mr. SHAFROTH. We would like to hear the bill read, so as to see what it is.

Mr. MYERS. Consent has not been granted yet.

The PRESIDING OFFICER. Without objection, the Secretary will read the bill.

Mr. MYERS. My request about the unfinished business has not been granted?

The PRESIDING OFFICER. Is there objection to temporarily laying aside the unfinished business?

Mr. MYERS. For not longer than one hour; and if the discussion on the bill which the Senator from Washington brings up lasts less than one hour, then until that bill is disposed of.

Mr. THOMAS. Reserving the right to object, I should like to hear what the bill is.

Mr. MYERS. I will state to the Senator from Colorado that my request has not yet been granted to temporarily lay aside the unfinished business.

Mr. THOMAS. I am not waiving my right to object, but I should like to have the bill read.

The PRESIDING OFFICER. Without objection, the bill will be read.

The SECRETARY. A bill (S. 4505) appropriating money to equip Puget Sound Navy Yard for battleship construction, reported favorably from the Committee on Naval Affairs. It reads as follows——

Mr. WILLIAMS. Mr. President, I do not know that I would have any objection to that bill upon its merits when it comes up in its regular order; but all navy yards, military posts, and everything else have become now a part of a common scheme, to express it in modern slang, of preparedness, although I have never known why we should not use the word "preparation" for "preparedness." I do not think I am willing to have that bill taken up out of its order.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. WILLIAMS. I am reserving the right to object, and I yield to the Senator.

Mr. POINDEXTER. I hope the Senator from Mississippi will not insist upon his objection after he hears an explanation of the need for the passage of the bill.

We have on the Pacific coast no facilities for the construction of battleships. At Mare Island Navy Yard, in California, provision was made for constructing ships, but it is not accessible to battleships on account of the lack of depth of water.

The report on this bill shows the recommendation of every naval officer who testified before the Committee on Naval Affairs in the House to the effect that this is the only navy yard in the United States which requires no artificial dredging to enable a battleship to approach its building slip and its dock.

Mr. WILLIAMS. If the Senator will pardon me, has the bill passed the House?

Mr. POINDEXTER. It has not.

Mr. WILLIAMS. Has it the unanimous indorsement of the Naval Affairs Committee of the Senate?

Mr. POINDEXTER. It has met the unanimous indorsement of every member of the committee who was present and who could be reached.

Mr. WILLIAMS. And a quorum was present?

Mr. POINDEXTER. Oh, yes.

Mr. WILLIAMS. Mr. President, still reserving the right to object, I want to take about three minutes to make a general observation. It strikes me that the American people have managed somehow or other through the Navy Department and through the War Department to accumulate a whole lot of unnecessary naval stations and a whole lot of unnecessary military posts of one sort and another. It strikes me as though they were divided out among the States according to senatorial and congressional courtesy and not in accordance with the demand for preparation of the Army and Navy for actual fighting, if actual fighting should be necessary. I, for one, think that one way of raising revenue for the Government will be to decrease, destroy, annihilate, do away with a whole lot of these unnecessary military posts and a whole lot of these unnecessary naval stations.

However, considering the condition of the Pacific slope and considering the fact which the Senator from Washington has mentioned, that the entrance to Mare Island has not sufficient depth to carry a 30-foot battleship in or out, and the fact that we ought to have some place on the Pacific coast where that objection would not lie, I shall not object to the consideration of the bill; but I give notice now that I am going to fight these congressional and senatorial military posts and naval stations all over the United States wherever I find them, for they are either unnecessary or absolutely harmful. Most of the military posts are absolutely harmful, because they divide our posts into little bits of units instead of enabling them to be concentrated not only for regimental but for brigade and division drill.

Mr. TILLMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from South Carolina?

Mr. WILLIAMS. I yield to the Senator from South Carolina.

Mr. TILLMAN. I want to say to the Senator from Mississippi that this bill has the approval of the Secretary of the Navy, who urges it. He knows the defenseless condition of the Pacific coast and he wants to have facilities provided to take care of our battleships whenever they may need attention on that coast.

Mr. WILLIAMS. I just this moment said that I would not object to the consideration of this bill——

Mr. TILLMAN. Very well, then.

Mr. WILLIAMS. But I wanted to take advantage of this opportunity to give notice that I would object to measures being

brought forward under this guise merely to make politics in some States.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MYERS. Before any order is made I want it understood, if unanimous consent is given, that it is with the condition that the unfinished business shall be laid aside temporarily only till 3.30 o'clock, to be taken up at that hour, or sooner, if the bill brought up by the Senator from Washington shall be disposed of before that hour; but that the unfinished business shall be taken up in any event not later than 3.30 o'clock. I want that added to the unanimous consent agreement.

The PRESIDING OFFICER. Is there objection to the request for unanimous consent to lay aside temporarily the water-power bill in order that the Senate may proceed to the consideration of the bill of the Senator from Washington?

Mr. MYERS. On the terms I have stated.

The PRESIDING OFFICER. The understanding being that at 3.30 o'clock the power bill shall have the right of way.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 4505) appropriating money to equip Puget Sound Navy Yard for battleship construction.

The Secretary read the bill, as follows:

Be it enacted, etc., That for building slip, equipment for shop fitters' shop, shop, and plant tools equipment at the Puget Sound Navy Yard, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $2,065,000, or so much thereof as may be necessary.

Mr. BRANDEGEE. I inquire how much is to be appropriated?

The PRESIDING OFFICER. The Secretary will state the amount.

The Secretary read as follows:

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $2,065,000, or so much thereof as may be necessary.

Mr. BRANDEGEE. Oh, is that all? [Laughter.]

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. SHAFROTH. Mr. President, it does seem to me that a bill of this kind ought not to be considered when there are so few Senators present. It seems to me the Senator ought to ask consent for the consideration of the bill in the morning hour, when there are a greater number of Senators present, or else that there should be a call of the Senate, to give all Senators a chance to be present in the event that there is any objection to the bill. It does not seem to me to be exactly right to call up a bill of this kind when there are so few Senators present. Some Senator may be interested in the bill and may desire to make objection. I will ask the Senator from Washington whether he knows of any Senator who has any objection whatever to the bill?

Mr. POINDEXTER. I do not know of any Senator who has any objection to it; on the contrary, every Senator who has expressed any opinion upon it, so far as I know at all, has expressly been in favor of it. The Senator from North Carolina [Mr. OVERMAN] objected to it upon the regular call of the calendar, but has since advised me that he did not understand the bill at that time; that he is in favor of it and wants to withdraw his objection.

Mr. SHAFROTH. I am not going to make objection, although I do think that a bill appropriating over $2,000,000 should be called up in the morning hour, when Senators are at least supposed to be here.

Mr. POINDEXTER. This is as near the morning hour, Mr. President, as we have been able to get.

Mr. SHAFROTH. But there are very few Senators present. That is the reason I made the suggestion.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

WATER-POWER SITES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Mr. MYERS. Mr. President, I will resume my discussion of this bill and I prefer not to be interrupted during the remainder of my remarks. If not interrupted I think I can finish in 10 or 15 minutes. If I yield to interruptions, I will be on the floor all day and then will not get through. I begin by reading a newspaper clipping which has been handed me and which goes to show the need for some provision in this country for the fixation of atmospheric nitrogen. It is printed as a telegram in a Seattle daily paper, and is as follows:

TACOMA, *Thursday, March 9.*

From $18,000 to $20,000 a day for 12 large freighters of the American-Hawaiian Line is said here to-day to be the offer made by the Du Pont Powder Co. for the use of the vessels in carrying nitrates from Chile to New York.

The rate is said to be from $1,500 to $1,700 a day each for the dozen freighters.

The *Baja California* and *Sinaloa*, which are making regular trips to this port with nitrates, are said to be under contract to the powder company, but the two are only able to keep the local plant of the powder company supplied.

That shows as decidedly as anything that has been said or read here, I think, the necessity in this country of some provision for the fixation of atmospheric nitrogen for our use. If that were provided for in this country, our nitrates would not all have to be brought from Chile at excessive transportation charges.

I have a number of other newspaper articles which go to show the necessity for the enactment of legislation of this character, some of them highly commending this particular bill and its provisions. I will not have them inserted in the RECORD now, but later I may ask to do so.

Mr. President, I will resume a brief and hurried explanation of the different sections of this bill. Section 1 I commented upon at some length yesterday. Beginning now with section 2, that section provides for diligent prosecution of work on a project after a lease for a power site has been let, and for the steady operation of a plant after its completion. Its effect is to provide against any unnecessary and unwarranted delay in the completion of a project or closing down of the plant after completion and withdrawal of its product from the market.

Section 3 very properly provides that all power developed which may be transmitted from one State into another shall be the subject of interstate-commerce control and that it shall be subject to the regulation of the Interstate Commerce Commission, which is the proper tribunal to have jurisdiction of such a matter.

Section 4 provides that in the case of a successor in interest or an assignee of any lease taking hold of a project it shall remain subject to all of the provisions of this measure, which is a proper matter of precaution.

Section 5 is the recapture clause, and provides that the Government may, upon certain terms and conditions, take over the property at the end of 50 years; and that if at the end of 50 years the Government does not take the property over, and the original lessee does not have his lease renewed, the land may be let to a new lessee.

Section 7 provides for letting contracts under certain conditions in excess of the 50-year period of the life of the lease. It is recognized that near the end of the 50-year term of the lease there may be necessity for letting a contract which would run a considerable length of time beyond the life of the lease. The bill as it came from the House provided for contracts under certain conditions to exceed the life of the lease for 20 years; the Senate committee made it 25 years, but by subsequent amendment struck out the limitation of time altogether and provided what the committee deems wiser—that under certain conditions such contracts may be let for a period of time beyond the life of the lease; but in order to do that, if the contract is to be let for use or execution in a State which has a public-service commission or a similar authority, both the approval of the public-service commission of the State and of the Secretary of the Interior must be obtained. If it be in a Territory or a State not having a public-service commission, then the approval of the Secretary of the Interior alone must be obtained. So no contract of that character may be entered into by the lessee without first having the approval of the Secretary of the Interior—that is absolutely provided—and if in a State having a public-service commission, then, in addition, the approval of the public-service commission of the State is required, which the committee thought a sufficient safeguard on contracts of that kind.

Section 8 makes what I think is a very wise provision in this bill. It provides that all of the revenue shall go to the State in which the project is located; that half of it shall go directly to the State, for such use as the State may see fit to make of it; that the other half shall go into the reclamation fund, and upon being returned from the reclamation fund shall go to the State in which the project is located. So the particular State in which the project is located will ultimately get all of the proceeds from operations under this bill, and the Federal Government claims nothing at all.

Section 9 provides that land which is covered by lease for water-power sites may under certain conditions be disposed of for other uses, subject to the paramount and the prior use as a power site.

Section 10 contains the very necessary provision that the Secretary of the Interior shall at all times have the right to examine the books and accounts of lessees and require them to submit statements, representations, or reports under oath. This is necessary in order to determine the amount of power developed and in order to fix the amount of compensation for the land leased.

Section 11 provides for the forfeiture of the lease under certain conditions and upon certain grounds therein set forth.

Section 12 authorizes the Secretary of the Interior to make rules for carrying into effect the provisions of this act, which is very necessary.

Section 13 is the section which provides in express terms that nothing in this act is to be intended to affect or shall be construed as affecting or in any way interfering with the laws of any State relating to the control, appropriation, use, or distribution of the waters of that State.

Section 14 provides that those who have hydroelectric power plants on public lands or transmission lines across public lands under existing laws or laws heretofore in force may, if they shall see fit, surrender the rights which they now hold and may come under the provisions of this bill.

Section 15 provides that nothing in the act shall apply to navigation dams or structures under the jurisdiction of the Secretary of War or the Chief of Engineers.

Section 16 is, I think, a very necessary and essential provision. It provides "that in instances where only 10 per cent or less of the lands actually necessary and required for the construction, maintenance, and operation of dams, water conduits, reservoirs, power houses, transmission lines, and other works for the development, generation, transmission, and utilization of hydroelectric power" is on Government land, and the land is "to be used only for overflowage, reservoir, or transmission purposes and not in whole or in part as a dam site or the site of a power house nor for the erection of buildings or operation of machinery," it shall be in the discretion of the Secretary of the Interior, if the applicant so elects, to waive any or all of the provisions of this bill and make such a lease of the Government land involved as he may deem just. That is believed to be a wise and prudent provision. There may be projects where only a negligible quantity of public lands will be involved; perhaps 1 or 2 acres, or half an acre, for overflowage or transmission or other minor uses. In a case of that kind it might not be fair or right to require the lessee to come under all of the provisions of this act, the same as if all the plant or the major portion of it were on public lands. It is left to the discretion of the Secretary of the Interior; he may or he may not require it, as he may see fit; and I think it may well be left to his discretion.

Sections 17 and 18 were inserted at the request of Senators from Colorado and New Mexico. The committee believes that they embrace subjects proper and appropriate to be dealt with in this bill; that they are germane to the nature of the bill; and the committee has no objection to their being incorporated in the bill.

Section 19 provides for subjecting a project to an enlarged use, by a party other than the owner, under certain terms and conditions, or to uses other than those for which it was first intended. While novel, the committee has adopted some amendments since the section was originally agreed to, which amendments appear to fairly well safeguard the section.

The purpose of this bill is to provide for the development of water power on the public lands, with due regard to the interests not only of the Federal Government but State governments and all who may be affected by such legislation. Water-power legislation should provide for the fair treatment of water-power companies to the end that they may be able to furnish the full measure of service with reasonable returns for the risks assumed; the protection of the investor to the end that the capital placed in the enterprise may receive fair interest and be held intact; the satisfaction of the local public dependent upon the power system that it may have good service at fair prices; the safeguarding of the rights of the general public that its property may be held intact and that the natural resources involved may not be wasted or destroyed; the recognition of the right of the State to control its own property and local affairs; and the retention by the United States of title to its water powers to the end that they may not be monopolized or misused but shall be put to work for the general welfare.

It is the intention of this measure to accomplish those purposes. It is believed that the provisions of the measure fairly well accomplish them. The committee has bestowed much labor upon it to that end. I have now spoken upon this bill the greater part of two days, and with this I submit it to the Senate for its consideration and ask for the passage of the bill.

PROHIBITION IN THE DISTRICT OF COLUMBIA.

Mr. SHEPPARD. Mr. President——

The PRESIDING OFFICER (Mr. THOMAS in the chair). The Senator from Texas.

Mr. SHEPPARD. Mr. President, for the information of the Senate, I desire to submit an explanation of the bill (S. 1082) for prohibition in the District of Columbia and of certain amendments which I shall propose at the proper time. At this point I desire to set out in the RECORD the bill as originally reported from the Committee on the District of Columbia.

The PRESIDING OFFICER. In the absence of objection, that will be done.

The bill referred to is as follows:

A bill (S. 1082) to prevent the manufacture and sale of alcoholic liquors in the District of Columbia, and for other purposes.

Be it enacted, etc., That on and after the 1st day of November, A. D. 1916, no person or persons, or any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, directly or indirectly, in the District of Columbia shall manufacture, store, or deposit, sell, offer for sale, keep for sale, traffic in, barter, or exchange for goods or merchandise, or solicit or receive orders for the purchase of any alcoholic liquors, give away the same, or import the same therein, except as hereinafter provided.

Wherever the term "alcoholic liquors" is used in this act it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, pure grain alcohol, and all malt and other liquors which shall contain one-half of 1 per cent by volume of alcohol or more.

That any person or persons, or any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, who shall, directly or indirectly, violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 nor more than $1,000, and shall be imprisoned in the District jail or workhouse for a period of not less than 30 days nor more than one year for each offense.

SEC. 2. The provisions of this act shall not be construed to prevent the manufacture, importation, or sale of denatured or wood alcohol for scientific or mechanical purposes, or the sale by wholesale druggists only of pure grain alcohol for scientific or mechanical purposes only, in quantities not to exceed 5 gallons at one time; but no such sale of alcohol shall be made any person who is less than 21 years of age or who is of intemperate habits, or who is addicted to the use of narcotic drugs; and every purchaser shall at the time and place of such sale make an affidavit in writing, signed by himself before such druggist or registered pharmacist at the time and place in the employ of such druggist, stating the quantity and the time and place, and fully for what purpose, and by whom such alcohol is to be used; that affiant is not of intemperate habits or addicted to the use of any narcotic drug, and that such alcohol is not to be used as a beverage or for any purpose other than that stated in said affidavit. Such affidavit shall be filed and preserved by such druggist and be subject to public inspection during business hours, and a record thereof made by such druggist in a record book kept for the purpose, showing the date of the affidavit, by whom made, the quantity of such alcohol, and when, where, for what purpose, and by whom to be used. Only one sale shall be made upon such affidavit, and in no greater quantity than is therein specified. For the purpose of this act any druggist or registered pharmacist making such sale shall have authority to administer such oath.

SEC. 3. If any wholesale druggist, owner of a wholesale drug store, registered pharmacist, clerk, or other employee of such store shall, upon such affidavit, or otherwise, sell or give away such alcohol to any person who is known to him to be of intemperate habits or is addicted to the use of any narcotic drug, or sell or give the same to anyone to be used for any purpose other than that named in said affidavit he shall be deemed guilty of a misdemeanor, and if convicted punished by fine of not less than $100 nor more than $500 and be confined in the District jail or workhouse not less than 30 days nor more than six months. In any prosecution against a wholesale druggist, owner of a wholesale drug store, registered pharmacist, clerk, or employee, for selling or giving liquor contrary to law, if a sale or gift be proven, it shall be presumed that the same was unlawful in the absence of satisfactory proof to the contrary, and the presentation of such affidavit by the defendant at the time of the trial for such sale or gift shall be sufficient to rebut the presumption arising from the proof of such sale or gift: *Provided*, That such druggist, owner of a drug store, registered pharmacist, clerk, or employee shall have complied with all other provisions of this act relating to a sale or gift.

SEC. 4. If any person who is of intemperate habits or addicted to the use of any narcotic drug shall make the affidavit mentioned in section 2 of this act, or if any person making such affidavit shall use as a beverage, or for any purpose, or at any place, other than that stated in such affidavit, or shall knowingly permit another to do so, said alcohol, or any part thereof, or shall knowingly make any false statement in such affidavit, he shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than $100 nor more than $500, or be confined in the District jail or workhouse not less than one nor more than six months for the first offense hereunder; and upon conviction for a second offense he shall be punished by a fine of not less than $200 nor more than $1,000, and shall be confined in the District jail or workhouse for not less than six months.

SEC. 5. Wholesale druggists desiring to deal in alcohol for scientific or mechanical purposes, as heretofore provided, shall, on or before the 1st day of November of each year, obtain a license from the Commissioners of the District of Columbia for the year beginning November 1, upon the payment of $25, which money shall be deposited with other license funds of the District. The said commissioners shall make necessary regulations governing the purchase and sale of alcohol by wholesale druggists in accordance with this act, and shall limit the number of licenses to wholesale druggists to not more than five, and may consider petitions for or protests against the granting of such licenses.

SEC. 6. That when any wholesale druggist, licensed as provided in the previous section, desires to sell or keep for sale pure grain alcohol, or

when any minister, pastor, or priest of a religious congregation or church desires wine for sacramental purposes in the usual religious exercises of his denomination, or when any ambassador or minister of a foreign country duly credited to the United States of America and maintaining an official residence in the District of Columbia desires alcoholic liquors for use in such residence, and for no other purpose, he may apply to the Commissioners of the District of Columbia for a permit, stating the amount desired, for what period and for what purpose, and said commissioners, if satisfied of the good faith of the application, shall grant a written permit to the applicant permitting the shipment to him of such amount as is shown to be reasonably necessary, which amount shall be stated in the permit, together with the purpose for which it is to be used, and in the case of wine the period to be covered by such use: *Provided*, That the amount of wine permitted to be shipped shall not exceed 5 gallons at one time, and in case of shipment of either alcohol or wine said permit shall be attached to the package by the shipper and remain attached until delivered to the consignee. The fee for issuing said permit shall be 25 cents, paid to the collector of taxes for the District of Columbia. Said permit shall be void after 20 days from date, and shall not be used for more than one shipment. The carrier or party making delivery shall keep a record of all such deliveries of wine for said purposes, which record shall, during business hours, be open to public inspection.

SEC. 7. That it shall be unlawful for any common or other carrier, express company, or any person to deliver to any person, company, corporation, club, or association or order, his or its agents, clerks, or employees, any prohibited alcoholic liquors in the District of Columbia, knowing the same to be such, and in the case of legal shipments of alcohol or wine, as provided in section 6 of this act, it shall be unlawful to deliver the same, whether brought from without the District of Columbia, or otherwise, or whether in original packages or otherwise, on any Sunday or on any other day before 6 o'clock antemeridian and after 5 o'clock postmeridian. Any common or other carrier, express company, or any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 or more than $500, or be confined in the District jail or workhouse not less than one nor more than six months, or by both fine and imprisonment in the discretion of the court.

SEC. 8. That every person who shall directly or indirectly keep or maintain by himself or by associating with others, or who shall in any manner aid, assist, or abet in keeping or maintaining any clubhouse or other place in which any alcoholic liquor is received or kept for the purpose of use, gift, barter, or sale, or for distribution or division among the members of any club or association by any means whatsoever, or who shall maintain what is commonly known as the "locker system" or other device for evading the provisions of this act, and every person who shall use, barter, sell, or give away, or assist or abet in bartering, selling, or giving away any liquors so received or kept, shall be deemed guilty of a misdemeanor, and upon conviction thereof be subject to the penalties prescribed in section 1 of this act; and in all cases the members, shareholders, associates, or employees in any club or association mentioned in this section shall be competent witnesses to prove any violations of the provisions of this section of this act, or of any fact tending thereto; and no person shall be excused from testifying as to any offense committed by another against any of the provisions of this act by reason of his testimony tending to criminate himself, but the testimony given by such person shall in no case be used against him.

The keeping or giving away of alcoholic liquors, or any schemes or devices whatever to evade the provisions of this act shall be deemed as unlawful selling within the provisions of this act.

SEC. 9. That is any person shall advertise or give notice by signs, billboards, newspapers, periodicals, or otherwise for himself or another the manufacturer, offering for sale, or keeping for sale of alcoholic liquors prohibited under this act, or shall circulate or distribute any price list, circulars, or order blanks advertising such liquors, or publish any newspaper, magazine, periodical, or other written or printed paper in which such advertisements of liquors appear, or shall permit to be posted upon his premises or premises under his control (including billboards) or shall permit the same to so remain upon such premises, he shall be guilty of a misdemeanor and be fined not less than $100 nor more than $500.

SEC. 10. That if one or more persons who are competent witnesses shall charge, on oath or affirmation before the corporation counsel of the District of Columbia or any of his assistants duly authorized to act for him, presenting that any person, company, copartnership, association, club, or corporation has or have violated or is violating the provisions of this act by manufacturing, storing or depositing, offering for sale, keeping for sale or use, trafficking in, bartering, exchanging for goods, giving away, or otherwise furnishing alcoholic liquor, shall request said corporation counsel or any of his assistants duly authorized to act for him to issue a warrant, said attorney or any of his assistants shall issue such warrant, in which warrant the room, house, building or other place in which the violation is alleged to have occurred or is occurring shall be specifically described, and said warrant shall be placed in the hands of the captain or acting captain of the police precinct in which the room, house, building, or other place above referred to is located, commanding him to at once thoroughly search said described room, house, building, or other place, and the appurtenances thereof, and if any such be found to take into his possession and safely keep, to be produced as evidence when required, all alcoholic liquors and all the means of dispensing the same, also all the paraphernalia or part of the paraphernalia of a barrom or other alcoholic liquor establishment, and any United States internal-revenue tax receipt or certificate for the manufacture or sale of alcoholic liquor effective for the period of time covering the alleged offense, and forthwith report all the facts to the corporation counsel of the District of Columbia, and such alcoholic liquor or the means for dispensing same, or the paraphernalia of a barroom or other alcoholic liquor establishment, or any United States internal-revenue tax receipt or certificate for the sale of alcoholic liquor effective as aforesaid, shall be prima facie evidence of the violation of the provisions of this act.

SEC. 11. That it shall not be necessary, in order to convict any person, company, house, association, club, or corporation, his, its, or their agents, officers, clerks, or servants of manufacturing, importing, or selling alcoholic liquors, to prove the actual manufacture, importing, sale, delivery of, or payment for any alcoholic liquors, but the evidence of having or keeping them in hand, stored or deposited, taking orders for, or offering to sell or barter, or exchanging them for goods or merchandise, or giving them away, shall be sufficient to convict; nor shall it be necessary in a warrant or information to specify the particular kind of alcoholic liquor which is made the subject of a charge of violation of this act.

SEC. 12. That any person who shall, in the District of Columbia, in any street, or public or private road, alley, or in any public place or building or in or upon any street car, or railroad passenger train, or in or upon any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, or waiting station, drink any alcoholic liquor of any kind, or if any person shall be drunk or intoxicated in any street, alley, or public or private road or in any railroad passenger train, street car, or any public place or building, or at any public gathering, or if any person shall be drunk or intoxicated and shall disturb the peace of any person anywhere, he shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $10 nor more than $100, or by imprisonment for not less than 5 days nor more than 30 days in the workhouse or jail of the District of Columbia, or by both such fine and imprisonment.

SEC. 13. The payment of the special tax required of wholesale or retail liquor dealers by the United States by any person or persons other than wholesale druggists licensed under section 5 of this act, within the District of Columbia, shall be prima facie evidence that such person or persons are engaged in keeping and selling, offering and exposing for sale alcoholic liquors contrary to the provisions of this act, and a certificate from the collector of internal revenue, his agents, clerks, or deputies showing the payment of such tax, and the name or names of person to whom issued, and the names of the person or persons, if any, associated with the person to whom such tax receipt is issued, shall be sufficient evidence of the payment of such tax and of the association of such persons for the selling and keeping, offering and exposing for sale of liquors contrary to the provisions of this act in all trials or legal inquiries.

SEC. 14. All houses, boathouses, buildings, club rooms, and places of every description, including drug stores, where alcoholic liquors are manufactured, stored, sold, or vended, given away, or furnished contrary to law (including those in which clubs, orders, or associations sell, barter, give away, distribute, or dispense intoxicating liquors to their members, by any means or device whatever, as provided in section 8 of this act) shall be held, taken, and deemed common and public nuisances. And any person who shall maintain, or shall aid or abet, or knowingly be associated with others in maintaining such common and public nuisance, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties prescribed in section 1 of this act, and judgment shall be given that such house, building, or other place, or any room therein, be abated or closed up as a place for the sale or keeping such liquor contrary to law, as the court may determine.

SEC. 15. The United States district attorney for the District of Columbia, or any citizen of the District of Columbia, may maintain an action in equity in the name of the United States to abate and perpetually enjoin such a nuisance as defined in the preceding section. The injunction shall be granted at the commencement of the action, and no bond shall be required. Any person violating the terms of any injunction granted in such proceedings shall be punished for contempt by a fine of not less than $100 nor more than $500 and by imprisonment in the District jail or workhouse for not less than 30 days nor more than 6 months, in the discretion of the court.

SEC. 16. That when any violation of this act is threatened, or shall have occurred, or is occurring, the doing of, or the continuance or repetition of the unlawful act, or any of like kind by the offending party may be prevented by a writ of injunction out of a court of equity upon a bill filed in all respects as in cases of liquor nuisances; in like manner the writ of injunction may be employed to compel obedience to any provision of this act.

SEC. 17. If a tenant of a building or tenement uses such premises, or any part thereof, in maintaining a common nuisance as hereinbefore defined, or knowingly permits such use by another, such use shall render void the lease under which he holds, and shall cause the right of possession to revert to the owner or lessor, who may, without process of law, make immediate entry upon the premises, or may avail himself of the remedy provided for the forcible detention thereof.

SEC. 18. Anyone who knowingly permits any building owned or leased by him or under his control, or any part thereof, to be used in maintaining a common nuisance hereinbefore described in section 14 of this act, after being notified in writing of such use, neglects to take all reasonable measures to eject therefrom the person so using the same, shall be deemed guilty of assisting in maintaining such nuisance.

SEC. 19. That no property rights of any kind shall exist in alcoholic liquors or beverages illegally manufactured, received, possessed, or stored under this act, and in all such cases the liquors are forfeited to the District of Columbia and may be searched for and seized and ordered to be destroyed by the court after a conviction when such liquors have been seized for use as evidence, or upon satisfactory evidence to the court presented by the corporation counsel that such liquors are contraband.

SEC. 20. Every wife, child, parent, guardian, or employer, or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of intoxication, habitual or otherwise, of any person, such wife, child, parent, or guardian shall have a right of action, in his or her own name, against any person who shall, by selling, bartering, or giving intoxicating liquors, have caused the intoxication of such person, for all damages actually sustained, as well as for exemplary damages; and a married woman shall have the right to bring suit, prosecute, and control the same, and the amount recovered the same as if unmarried; and all damages recovered by a minor under this act shall be paid either to such minor or to his or her parents, guardian, or next friend, as the court shall direct.

SEC. 21. If any person while in charge of a locomotive engine, or while acting as a conductor or brakeman of a car or train of cars, or while in charge of any street car, steamboat, launch, or other water craft, or while in charge of or operating any automobile or horse vehicle in the District of Columbia, shall be intoxicated, he shall be guilty of a misdemeanor, and if convicted shall be punished by a fine of not less than $25 nor more than $300, and in default in payment of said fine shall be imprisoned in the District jail or workhouse for not exceeding three months, or both fine and imprisonment, in the discretion of the court.

SEC. 22. It shall be the duty of the Commissioners of the District of Columbia to enforce the provisions of this act. They shall detail qualified members of the police force to detect violations of the act, if any, and to report promptly all knowledge or information they may have concerning such violations, together with the names of any witnesses by whom they may be proven to the corporation counsel; but it shall be the duty of all members of the police force to detect violations of the act and to promptly report any information or knowledge

concerning the same to the corporation counsel, together with the names of witnesses, by whom such violations may be proven; and the corporation counsel shall bring such alleged violators of the law to trial with all due diligence.

If any such officer shall fail to comply with the provisions of this section, he shall upon conviction be fined in any sum not less than $100 nor more than $500; and such conviction shall be a forfeiture of the office held by such person, and the court before whom such conviction is had shall in addition to imposition of the fine aforesaid order and adjudge the forfeiture of his said office. For a failure or neglect of official duty in the enforcement of this act any official herein referred to may be removed by court action.

SEC. 23. That prosecutions for violations of the provisions of this act shall be on information filed in the police court by the corporation counsel of the District of Columbia or any of his assistants duly authorized to act for him, and said corporation counsel or his assistants shall file such information upon the presentation to him or his assistants of sworn information that the law has been violated; and such corporation counsel and his assistants shall have power to administer oaths to such informant or informants, and such others as present themselves, and anyone making a false oath to any material fact shall be deemed guilty of perjury and subject to the same penalties as now provided by law for such offense.

When, however, it appears to the Commissioners of the District of Columbia that it will be in the interest of more effective enforcement of the provisions of this act, they may request the United States district attorney for the District of Columbia to prosecute persons charged with offenses against the law, and when so requested by said commissioners the said district attorney shall proceed before the grand jury and in the Supreme Court of the District of Columbia to prosecute such offenders in manner now prescribed by law for the prosecution of persons charged with violations of the laws against crime in the District of Columbia.

SEC. 24. That if for any reason any section, paragraph, provision, clause, or part of this act shall be held unconstitutional or invalid, that fact shall not affect or destroy any other section, paragraph, provision, clause, or part of the act not in and of itself invalid, but the remaining parts of sections shall be enforced without regard to that so invalidated.

SEC. 25. That in the interpretation of this act words of the singular number shall be deemed to include their plurals, and words of the masculine gender shall be deemed to include the feminine, as the case may be.

SEC. 26. That this act shall be in full force and effect on and after the 1st day of November, 1916, and all laws and parts of laws inconsistent herewith be, and they are hereby, repealed.

Mr. SHEPPARD. Mr. President, the bill in its present form aims at the personal use of alcoholic and other prohibited liquors as well as their manufacture and sale. On further consideration it has been deemed best to omit in this initial act the personal-use feature. The principal purpose of the bill is to abolish the saloon, one of the chief menaces of humanity. If after the enactment of the pending bill in its amended form conditions developing with its operation should demand further legislation, it will be promptly proposed.

Accordingly section 1 of the present bill is to be amended by striking out the word "store," in line 7, the words "or deposit," in line 8, by adding after the word "alcoholic," in line 10, the words "or other prohibited," and by striking out the remainder of line 10 after the word "liquors" and all of lines 11 and 12, the part stricken out reading as follows: "give away the same, or import the same therein, except as hereinafter provided," and inserting in lieu of the part thus stricken out the following: "for beverage purposes or for any other than scientific, medicinal, pharmaceutical, mechanical, sacramental, or other nonbeverage purposes."

This section is to be further amended by striking out the words "pure grain," in line 4, page 2, and inserting in lieu thereof the word "ethyl," by striking out the remainder of line 4 after the word "alcohol" and all of lines 5 and 6 and inserting the words "all malt and all other alcoholic liquors."

The section as amended will read as follows:

Be it enacted, etc., That on an after the 1st day of November, A. D. 1916, no person or persons, or any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, directly or indirectly, in the District of Columbia shall manufacture, sell, offer for sale, keep for sale, traffic in, barter, or exchange for goods or merchandise, or solicit or receive orders for the purchase of any alcoholic or other prohibited liquors for beverage purposes or for any other purposes than scientific, medicinal, pharmaceutical, mechanical, sacramental, or other nonbeverage purposes.

Wherever the term "alcoholic liquors" is used in this act, it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, ethyl alcohol, all malt liquors, and all other alcoholic liquors.

That any person of persons, or any house, company, association, club, or corporation, his, its, or their agents, officers, clerks, or servants, who shall, directly or indirectly, violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than $300 nor more than $1,000 and shall be imprisoned in the District jail or workhouse for a period of not less than 30 days nor more than 1 year for each offense.

Mr. BORAH. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Idaho?

Mr. SHEPPARD. I yield.

Mr. BORAH. As I understand, the Senator has proposed an amendment to the original bill so as to eliminate now the question of personal use?

Mr. SHEPPARD. I have; yes, sir.

Mr. BORAH. And the bill as it would operate, if passed, relates simply to the sale of liquor?

Mr. SHEPPARD. To the liquor traffic in the District of Columbia.

Mr. BORAH. The Senator has given much more time to this subject than I have, but there will not be very much gained, it seems to me, by prohibiting saloons in the District of Columbia if they can be found just across the line.

Mr. SHEPPARD. Mr. President, the counties which border on the District of Columbia are dry counties.

Mr. BORAH. Is Baltimore a dry county?

Mr. SHEPPARD. The county in which Baltimore is located does not border on the District of Columbia.

Mr. BORAH. No; but it is in very close proximity to it. I doubt if there would be much gained by prohibiting saloons under the peculiar conditions which surround Washington.

Mr. SHEPPARD. Mr. President, as I have said, we have deemed it best not to try to accomplish everything in one bill. I will say to the Senator from Idaho that we have thought it best in the initial act to attack first the traffic itself; and, if that measure does not prove satisfactory, others can be brought into operation.

Mr. GALLINGER. Mr. President——

Mr. SHEPPARD. I yield to the Senator from New Hampshire.

Mr. GALLINGER. I understand the Senator is about to propose a large number of amendments, which may or may not be very consequential amendments to the bill. I simply wish to suggest to the Senator that after he has submitted the amendments, I wish he would ask for a reprint of the bill as it would read if the amendments were agreed to.

Mr. SHEPPARD. That is my purpose in speaking now. I am making a detailed explanation of the amendments.

It will be observed that all malt liquors are on the prohibited list and are classed as "alcoholic." This is done because of the ease with which prohibition laws are violated if traffic in malt liquors is permitted. The numerous kinds of "near beers" are familiar instances of such violation. If it is attempted to permit the sale of malt liquors with a small per cent of alcohol or with no alcohol, it has been found by experience that it is almost impossible to adopt any effective system of measurement and inspection. Dealers will include in a case of bottles containing malt liquors a number of bottles with an intoxicating percentage of alcohol, and it has been found extremely difficult to detect them. Since they may be so easily used to defeat the law, it has been thought wise to stop their sale altogether.

In this connection let me quote from a recent decision of the United States Supreme Court the decision in the case of Purity E. & T. Co. against Lynch (226 U. S., 192). The quotation is as follows:

* * * It is also well established that when a State, exerting its recognized authority, undertakes to suppress what it is free to regard as a public evil, it may adopt such measures having reasonable relation to that end as it may deem necessary in order to make its action effective. It does not follow that because a transaction separately considered is innocuous it may not be included in a prohibition the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government. * * * With the wisdom of the exercise of that judgment the court has no concern, and unless it clearly appears that the enactment has no substantial relation to a proper purpose it can not be said that the limit of legislative power has been transcended. To hold otherwise would be to substitute judicial opinion of expediency for the will of the legislature, a notion foreign to our constitutional system. * * * It was competent for the Legislature of Mississippi to recognize the difficulties besetting the administration of laws aimed at the prevention of traffic in intoxicants. It prohibited, among other things, the sale of "malt liquors." In thus dealing with a class of beverages which in general are regarded as intoxicating it was not bound to resort to a discrimination with respect to ingredients and processes of manufacture which, in the endeavor to eliminate innocuous beverages from the condemnation, would facilitate subterfuges and frauds and fetter the enforcement of the law. A contrary conclusion, logically pressed, would save the nominal power while preventing its effective exercise. The statute establishes its own category. The question in this court is whether the legislature had the power to establish it. The existence of this power, as the authorities we have cited abundantly demonstrate, is not to be denied simply because some innocent article or transactions may be found within the prescribed class. The inquiry must be whether, considering the end in view, the statute passes the bounds of reason and assumes the character of a merely arbitrary fiat. That the opinion is extensively held that a general prohibition of the sale of malt liquors, whether intoxicating or not, is a necessary means to the suppression of trade in intoxicants, sufficiently appears from the legislation of other States and the decision of the courts in its construction. * * * We can not say that there is no basis for this widespread conviction. The State, within the limits we have stated, must decide upon the measures that are needful for the protection of its people, and, having regard to the artifices which are used to promote the sale of intoxicants under the guise of innocent beverages, it would constitute an unwarrantable departure from accepted principles to hold that the prohibition of the sale of all malt liquors, including the beverage in question, was beyond its reserved power. * * *

The second section permits the manufacture, importation, and sale without restriction of denatured, or methyl, alcohol. Under the amendments I shall propose it permits also the manufacture, importation, or sale of ethyl alcohol for scientific, medicinal, pharmaceutical, or mechanical purposes, restricting such manufacture and sale within the District, as well as the manufacture and sale of alcoholic liquors for sacramental purposes within the District, to licensed manufacturers and druggists. Moreover, it permits the purchase of alcoholic or other prohibited liquors for medicinal purposes on prescriptions of physicians, under the regulations prescribed in section 3.

The specific amendments intended to be proposed to this section are as follows:

Strike out all of section 2 after lines 15 and 16, page 2, and insert "of methyl alcohol, or of ethyl alcohol for scientific, medicinal, pharmaceutical, or mechanical purposes, nor to prevent the sale of alcoholic or other prohibited liquors by druggists for medicinal purposes on prescriptions of physicians under the regulations set out in section 3 of this act: *Provided*, That the manufacture and sale of ethyl alcohol or of alcoholic liquors for sacramental purposes within the District of Columbia shall be restricted to manufacturers and druggists licensed, respectively, to make and sell such alcohol, as hereinafter provided, for scientific, mechanical, pharmaceutical, medicinal, or sacramental purposes only."

As amended section 2 will read as follows:

The provisions of this act shall not be construed to prevent the manufacture, importation, or sale of denatured or of methyl alcohol, or of ethyl alcohol for scientific, medicinal, pharmaceutical, or mechanical purposes, nor to prevent the sale of alcoholic or other prohibited liquors by druggists for medicinal purposes on prescriptions of physicians, under the regulations set out in section 3 of this act: *Provided*, That the manufacture and sale of ethyl alcohol or of alcoholic liquors for sacramental purposes shall be restricted to manufacturers and druggists licensed, respectively, to make and sell such alcohol and alcoholic or other prohibited liquors, as hereinafter provided, for scientific, mechanical, pharmaceutical, medicinal, or sacramental purposes only.

The present provisions of section 2 limiting sale of ethyl or pure grain alcohol to quantities of 5 gallons at one time, by wholesale druggists only, are eliminated, as are the other restrictions on the sale of ethyl alcohol in the section as it now stands.

Section 3 in the present bill is to be stricken out, as it relates to penalties for violation of the eliminated provisions of section 2. This section in its new form practically reenacts the provisions of the present excise law of the District of Columbia relating to the sale of liquors for medicinal purposes on prescriptions of physicians. Compounds, extracts, and proprietary medicines containing alcohol but so medicated as to be unfit for beverages are excepted. The form of prescription is provided, as well as the form of the book in which a description of sales on prescriptions must be kept by druggists. A similar book is also required to be kept by manufacturers and sellers of ethyl alcohol. Penalties are provided. The new section 3 reads as follows:

SEC. 3. That regularly licensed and registered druggists or pharmacists in the District of Columbia shall not sell alcoholic or other prohibited liquors, nor compound nor mix any composition thereof, nor sell any malt extract, or other proprietary medicines containing alcohol, except such compounds, compositions, malt extracts, or proprietary medicines be so medicated as to be medicinal preparations or compounds unfit for use as beverages, except upon a written and bona fide prescription of a duly licensed and regularly practicing physician in the District of Columbia, whose name shall be signed thereto. Such prescription shall contain a statement that the disease of the patient requires such a prescription, shall be numbered in the order of receiving, and shall be canceled by writing on it the word "canceled" and the date on which it was presented and filled, and kept on file in consecutive order, subject to public inspection at all times during business hours. No such prescription shall be filled more than once. Every druggist or pharmacist selling intoxicating liquors as herein provided shall keep a book provided for the purpose and shall enter therein at the time of every sale a true record of the date of the sale, the name of the purchaser, who shall sign his name in said book as a part of the entry, his residence (giving the street and house number, if there be such), the kind and quantity and price of such liquor, the purpose for which it was sold, and the name of the physician giving the prescription therefor. Such book shall be open to public inspection during business hours and shall be in form substantially as follows:

Date.	Name of purchaser.	Residence.	Kind and quantity.	Purpose of use.	Price.	Name of physician.	Signature of purchaser.

Said book shall be produced before the Commissioners of the District of Columbia or the courts when required, and shall also contain a statement of the kind and amount of alcoholic and other prohibited liquors on hand when this act shall go into effect; and thereafter such druggist or pharmacist shall, on the order of the court or the Commissioners of the District, make a statement of the amount of intoxicating liquor sold or used in any manner since the last statement, and the amount on hand at the date when such court or commissioners require such statement: *Provided*, That ethyl alcohol may be sold without a physician's prescription for mechanical, medicinal, pharmaceutical, scientific, or other nonbeverage purposes by registered and licensed druggists or pharmacists, or by licensed manufacturers, each and all of whom shall keep a book for the purpose of registering such sales in a similar manner and form as required for the sale of other alcoholic and other prohibited liquors by the provisions of this section: *Provided further*, That any person who shall make any false statement as to the purpose or use of alcohol purchased under the provisions of this section shall be deemed guilty of a misdemeanor and be fined for each offense not less than $50 nor more than $300, and in default of the payment of such fine shall be imprisoned in the jail or workhouse of said District not less than 30 days nor more than 6 months.

Any druggist or pharmacist who shall sell or dispense any alcoholic or other prohibited liquors except in such manner as provided in this section, or who shall fail or refuse to keep the record herein required, or who shall refill any prescription, or who shall violate any other provisions of this act, shall be guilty of illegal selling, and, upon conviction thereof, shall be subject to the penalties prescribed in section 1 of this act. Upon a second conviction for said offense, in addition to the penalties prescribed in said section 1, it shall be a part of the judgment of conviction that the license of such druggist or pharmacist to practice pharmacy shall be revoked, and the court before which such person is tried and convicted shall cause a certified copy of such judgment of conviction to be certified to the board having authority to issue license to practice pharmacy in the District of Columbia.

Any physician who shall prescribe any alcoholic or other prohibited liquor except for treatment of disease which, after his own personal diagnosis, he shall deem to require such treatment shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500, and in default of payment of said fine shall be imprisoned in the District jail or workhouse for not less than 30 nor more than 90 days, and upon a second conviction for said offense, in addition to the penalty above provided, it shall be a part of the judgment of conviction that the license of such physician to practice medicine be revoked, and the court before which such physician is tried and convicted shall cause a certified copy of such judgment of conviction to be certified to the board having authority to issue licenses to practice medicine in the District of Columbia.

Section 4 of the bill in its present form is likewise to be stricken out, because, like the original section 3, it relates to eliminated provisions of section 2. In the revised form section 4 provides the method by which wine for sacramental purposes may be obtained. It provides that any minister, pastor, or priest desiring wine for sacramental purpose must obtain a permit from the Commissioners of the District of Columbia, the amount to be shipped or purchased under one permit not to exceed 5 gallons, each permit to expire in 20 days and to cover but one shipment or purchase. The new section 4 reads as follows:

SEC. 4. That when any minister, pastor, or priest of a religious congregation or church desires wine for sacramental purposes in the usual religious exercises of his denomination, he may apply to the Commissioners of the District of Columbia for a permit, stating the amount desired, for what period and for what purpose, and said commissioners, if satisfied of the good faith of the application, shall grant a written permit to the applicant permitting the shipment to him, or the purchase by him, of such amount as is shown to be reasonably necessary, which amount shall be stated in the permit, together with the purpose for which it is to be used, and the period to be covered by such use; the amount of wine permitted to be shipped or purchased under one permit shall not exceed 5 gallons, and the said permit shall be attached to the outside of the package by the shipper and remain so attached until delivered to the consignee, when it shall be canceled by the carrier. Said permit shall be void after 20 days, and shall not be used for more than one shipment.

Section 5 is to be stricken out and a new section inserted providing for the manufacture of alcohol for the purposes permitted in the act by licensed manufacturers, who must obtain an annual license, paying therefor $100. It provides that druggists desiring to deal in alcohol for such purposes shall obtain an annual license; wholesalers paying $25, retailers $10. Manufacturers may sell only to druggists licensed as herein provided—and only druggists properly licensed may sell alcohol for permitted purposes. Penalties are imposed for violations of this section. The original provision restricting purchase and sale of alchol to five wholesale druggists has been eliminated.

The new section 5 reads as follows:

Any person, company, or corporation desiring to manufacture alcoholic or other prohibited liquors for the purposes permitted in this act shall, on or before the 1st day of November of each year, obtain a license from the Commissioners of the District of Columbia for the year beginning November 1, upon the payment of $100, which money shall be deposited with other license funds of the District. Druggists, wholesale or retail, desiring to sell alcoholic or other prohibited liquors for the purposes permitted in this act shall obtain a license in the same way for the same period, the fee for wholesale druggists being $25, for retail druggists $10. The commissioners shall have power to refuse or revoke all licenses referred to in this section, if doubtful of the good faith of the licensee and his intention to comply with this act. Manufacturers licensed according to this section shall sell alcoholic and other prohibited liquors to druggists only, and only to such druggists as are licensed under the terms of this section, provided that hospitals, departments of the Government, colleges, and laboratories may purchase alcoholic liquors from manufacturers, after obtaining permit from the District Commissioners, who shall be satisfied of the good faith of said purchasers before granting permit, and who shall require records and reports of all sales made by such manufacturers. No others than druggists and manufacturers licensed according to this section may manufacture or sell alcoholic and other prohibited liquors in this District of Columbia, and these only for the purposes permitted by this act. Violations of this section shall be punished by fine of not less than $300 nor more than $1,000, and by imprisonment in the District jail or workhouse for not less than 30 days nor more than one year.

Section 6 of the bill as introduced is to be omitted, as it relates to procurement of wine for sacramental purposes, a purpose already covered by the new section 4, and of alcoholic liquors

by legations and embassies, a feature rendered unnecessary by the amendments permitting personal use.

Section 7 is to be numbered section 6 and is to remain practically unchanged. The following amendments are to be proposed to this section: In line 21 strike out the word "prohibited." In line 22 strike out the word "alcoholic" and add, after the word "liquors," the words "for prohibited purposes." In line 23 strike out the word "legal." Strike out line 24 and insert in lieu thereof the words "liquors for purposes not prohibited." Strike out lines 25 and 26 and insert in lieu thereof "it shall be unlawful to bring the same into the District of Columbia or to deliver the same therein." In line 1, page 7, strike out the words "or whether."

The new section 6, as amended, will read as follows:

SEC. 6. That it shall be unlawful for any common or other carrier, express company, or any person to deliver to any person, company, corporation, club, association, or order, his or its agents, clerks, or employees any liquors for prohibited purposes in the District of Columbia, knowing same to be such, and in the case of shipments of liquors for purposes not prohibited it shall be unlawful to bring the same into the District of Columbia, or to deliver the same therein, in original packages or otherwise, on any Sunday or on any other day before 6 o'clock a. m. and after 5 o'clock p. m. Any common or other carrier, express company, or any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $100 or more than $500 or be confined in the District jail or workhouse not less than one nor more than six months, or by both fine and imprisonment, in the discretion of the court.

This section makes it unlawful for any common or other carrier, express company, or any person to deliver knowingly any prohibited liquor at any time or to ship liquors into the District for any purposes on Sunday or on any day before 6 o'clock in the morning and after 5 o'clock in the evening. Penalties are imposed.

Similar antishipping provisions have been incorporated in a number of prohibition States, such as Alabama, Georgia, and West Virginia. They have been found essential to a well-enforced law. Better supervision may be had when shipments into the District can be made only in the daylight and not at all on Sunday.

Section 8 becomes section 7, and remains almost without change except for the elimination of the words "use," "gift," and "give away." This section is specially intended to prevent evasions of the law by clubs or associations. In many jurisdictions prohibition laws have been seriously hampered because clubs and similar organizations were able to dispense liquors by some scheme or device in violation of the plain intent and purpose of the law. One of the most common of these devices is known as the "locker system," a device prohibited by this section. It makes all officers, members, stockholders, and employees of clubs who in any way aid or abet in the sale of liquors liable to punishment. It also provides that all persons connected with a club shall be competent witnesses to prove violations of the act, and that no person shall be excused from testifying because he may incriminate himself, but that any testimony he may give shall not be used against him.

The experience of other jurisdictions has shown such provisions as these to be highly desirable. Similar provisions are found in the laws of nearly all the prohibition States. The State of Georgia recently enacted a law for the especial purpose of eliminating drinking clubs. There are similar provisions in the present excise law of the District.

The last four lines of section 8 of the original bill are to be made into a new section, known as section 8, and are to be amended so as to read as follows:

The keeping or giving away of alcoholic or other prohibited liquors for the purpose of evading the provisions of this act shall be deemed an unlawful selling, subject to the penalties provided in section 1 of this act.

The justice of this provision is manifest. It is aimed at endeavors to evade this act under the cloak of keeping for pretended personal use or of a pretended gift.

Section 9 is to remain practically as it now is. A few changes are to be suggested, as follows: In line 12, before the words "by signs," insert the word "of." In line 14, after the word "alcoholic," insert the words "or other prohibited"; and after the word "liquors" insert the words "for purposes forbidden." In line 16, after the word "publish," insert the words "or distribute."

This section makes it unlawful to advertise liquors for prohibited purposes in any manner, by newspapers, periodicals, billboards, signs, or otherwise; to distribute order blanks, price lists, or circulars advertising such liquors, or to publish or to distribute newspapers, magazines, or other printed or written paper containing such advertisements. The penalty is a fine of not less than $100 nor more than $500.

Similar antiadvertising laws are in operation in Maine, Oregon, Alabama, Georgia, and other States. The effect of prohibition is to reduce to a minimum the consumption of alcoholic liquors. Evidently it is inconsistent with such object to permit a State or District to be flooded with advertisements of liquors for forbidden purposes.

Section 10 is the well-known "search and seizure" provision. The District excise law contains a similar provision, and it is found in the prohibition laws of Iowa, North Carolina, Maine, Oregon, Washington, West Virginia, and other States. It is regarded as a very essential part of any prohibition or even a license law. It enables the authorities to reach violations of the law that can not be reached in any other way. Upon a charge upon oath presented to the corporation counsel or any of his assistants authorized to act for him that the law is being violated, a search warrant shall be issued and placed in the hands of the captain of the police precinct in which the place to be searched is located, commanding him to search for and seize all prohibited liquors and the means for dispensing the same, and hold them as evidence, together with any internal-revenue tax receipt and any paraphernalia of a barroom or other alcoholic-liquor establishment.

The only change to be made in this section is the elision of the words "storing or depositing," in line 3, page 9; "or use," in line 4, page 9; and "giving away," in line 5, page 9.

The courts have sustained "search and seizure" practically everywhere, and it is now regarded as a necessary part of the law enforcing machinery of every up-to-date prohibition measure.

Section 11 is to be omitted, as its provisions are practically embodied in the new section 8.

Section 12 is to be changed to section 11. This section is designed to prevent the drinking of alcoholic liquors in the streets or roads, in any public place, or in street cars or other public conveyance; it also makes it an offense to be intoxicated in the streets, alleys, or roads, or in any street car, railroad passenger train, or in any other public place or building or to disturb the peace of any person anywhere. The punishment provided for any of these offenses is a fine of from $10 to $100, or imprisonment of from 5 to 30 days, or both fine and imprisonment, in the discretion of the court. Similar provisions are in force in Maine and Idaho, in the District of Columbia, and other jurisdictions. Such laws have been upheld wherever tried as being in the interest of good morals. A number of the non-prohibition States prohibit the drinking of liquors on railroad trains. Texas has a very stringent law of the kind. Such laws are becoming more and more popular.

The only change to be proposed for this section is to strike out, in line 24, the last word, "or," and, in line 25, the words "railroad passenger train or in or upon" and insert the word "or" before the word "any."

Section 13 becomes section 12. This section contains the now widely used provision which makes the payment of the special internal-revenue tax required by the Government from wholesale or retail liquor dealers prima facie evidence of the violations of the law by the person paying such tax, except in cases where such person is authorized by local license to sell liquors. Such a provision is of great use in the enforcement of prohibition laws, and will be until the Government ceases to collect revenue from the illicit sale of liquor in prohibited States and districts. It is in force in Maine, West Virginia, Washington, North Carolina, Arkansas, Idaho, and other States.

The only amendment I propose to this section is to strike out the word "wholesale" in line 16 and insert in lieu thereof the words "manufacturers or." Manufacturers and druggists licensed under this act are exempted from the operation of this section.

Section 14 becomes section 13. In this section it is provided that any building, clubroom, boathouse, or other place where this act is violated may be declared a public or common nuisance, and be abated by order of a court. In addition, any person who shall maintain any such public nuisance may be convicted and punished under the penalties provided in section 1 of the bill. This common-nuisance provision is found to be a valuable aid in the enforcement of prohibition laws, and West Virginia, Oregon, Washington, Arkansas, Idaho, and other States find the law effective.

This section is to be amended as follows: In line 7 strike out the words "stored" and "or," in line 8 strike out the words "given away," and in line 9 strike out the words "give away."

Section 15 becomes section 14, and remains without change. In this section it is provided how a "common nuisance," as declared in the previous section, may be abated. The United States district attorney for the District of Columbia, or any citizen of the District, may maintain an action in equity in the name of the United States to abate and perpetually enjoin such

nuisance. The injunction shall be granted at the commencement of the suit, and no bond shall be required. The penalty for violating the terms of any injunction is a fine of not less than $100 nor more than $500 and imprisonment for not less than 30 days nor more than 6 months. It is a summary, but often necessary, part of prohibition and other similar laws.

Section 16 becomes section 15 and remains unchanged. This section carries an extension of the operation of the writ of injunction in aid of law enforcement when other methods of procedure may fail. The writ may be employed to prevent a threatened violation of the law or a continuation or repetition of an unlawful act; and it may be employed to compel obedience to any provision of the act. The courts have generally upheld this use of the writ of injunction in enforcing liquor laws, and it has generally proven effective.

Section 17 becomes section 16 and remains unchanged. This section carries another aid to law enforcement. If a tenant of a building uses or knowingly permits said building to be used by another as a common nuisance, the lease to said building is rendered void, and the right of possession reverts to the owner or lessor, who may immediately enter into possession of the premises, or he may avail himself of the remedy for forcible detention.

Section 18 becomes section 17 and remains as it now is. This section provides further aid to law enforcement in that in case the landlord has knowledge that his property is being used as a common nuisance and neglects to take reasonable measures to eject the lessee he shall be deemed guilty of aiding in maintaining such nuisance. It is apparent that the provisions of this section and the one preceding will be valuable aids in securing enforcement of the act. Similar provisions are in force in the State of Kansas.

Section 19 becomes section 18, with no other change. In section 19 it is provided that there shall be no property rights in prohibited alcoholic liquors, and such liquors shall be held contraband. The reason for such a provision is plain. It is another aid to law enforcement. Liquors seized and used as evidence may be destroyed by order of the court after conviction, or upon satisfactory evidence that such liquors are contraband. Similar provisions are found in the prohibition laws of some of the States.

Section 20 becomes section 19. This section carries a civil damage provision similar to the laws in a number of the States, among them Illinois and Maine. A wife, child, parent, guardian, employer, or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of intoxication, shall have a right of action against the person selling or furnishing the liquors which caused the intoxication. This seems to be a wise and just provision, and effective as well. Such laws have been generally sustained by the courts.

This section is to be amended by inserting the word "or," in line 24, between the words "selling" and "bartering," and by striking out, after the word "bartering," the words "or giving."

Section 21 becomes section 20, and is otherwise unaltered. It is the purpose of this section to lessen the dangers of railroad, street-car, vehicular, and water traffic by making it an offense for any intoxicated person to be in charge of or to operate the motor power of or to be otherwise in charge of the agencies of such traffic. These provisions apply to conductors and brakemen as well as engineers of railroad trains. The value of such a law is manifest. Nearly all railroad companies prohibit their employees from drinking intoxicating liquors on or off duty. The lives of passengers intrusted to public carriers should be safeguarded in every way possible, and so should the traffic of the streets be safeguarded from the recklessness of drinking chauffeurs and drivers. The State of North Carolina has a law punishing drunken trainmen, as has other States. The section provides a penalty of from $25 to $300, or, in default, imprisonment for not more than three months, or both such fine and imprisonment.

Section 22 becomes section 21 and remains without alteration. In this section the duty of enforcing the law is charged to the Commissioners of the District of Columbia. They are required to detail qualified members of the police force to give special attention to the detection of violations of the law, but it shall be the duty of all members of the police force to detect violations of the act and report any information or knowledge concerning the same to the corporation counsel, with the names of witnesses, and the corporation counsel is charged with the duty of speedily prosecuting all offenders.

This does not change the method of prosecution now followed in excise cases in the District, except as to the proposed special detail of officers to detect violations of the law. To enforce the Kenyon red-light law for the District a special detail of officers give their whole time to the detection and prosecution of offenders. In West Virginia there is a State commissioner of prohibition, whose duty it is to enforce the law all over the State. Other places under license or prohibition laws provide officers who are specially charged with the enforcement of the law. It is assumed that this provision will appeal to all who desire the thorough enforcement of the law.

It is further provided that if any officer fail to do his duty under this section he may be so charged, and upon conviction be fined in any sum not less than $100 nor more than $500, and such conviction shall carry with it a forfeiture of his office; and the court may, in the case of any official who fails or neglects to perform his official duty in the enforcement of the act, remove such official from his office. Similar provisions for the punishment or removal of negligent officials are found in the prohibition laws of Maine, Idaho, North Carolina, West Virginia, and Oregon.

Section 23 becomes section 22 and is to be unchanged. As under the present District license law, it is provided here that prosecutions of alleged offenders shall be on information filed in the police court by the corporation counsel of the District or any of his assistants duly authorized to act for him; and information shall be filed upon presentation to him of sworn information that the law has been violated. Power is given to the corporation counsel or his assistants to administer oaths to informants or others who present themselves; and a false oath renders the person liable to a charge of perjury, with the penalties now provided by law. So much of the section is precisely as the law is now concerning prosecutions under the excise law. But the commissioners are given another method of prosecution by this section, to be exercised as their judgment directs. To secure more effective enforcement of the law, they may proceed through the office of the United States district attorney for the District of Columbia, who shall proceed to prosecute in the usual manner by indictment. This seems to be a desirable safeguard to prevent the miscarriage of justice, which so often happens in many jurisdictions in liquor prosecutions.

Section 24 becomes section 23, and remains unaltered. In this section it is provided that in case any part of the act shall be deemed unconstitutional or invalid the remainder shall not be affected thereby, but shall be enforced without regard to the part so invalidated. It is a wise provision, and no comment is necessary. Such provisions are not uncommon. They are found in the prohibition laws of Washington, Idaho, and other States.

Section 25 becomes section 24, and is to be unchanged. This section is simply an aid to interpretation of the act. Words of singular number shall include the plural, and words of the masculine gender shall include the feminine, as the case may be.

Section 26 becomes section 25. It is here provided that the act shall be in full force and effect on and after the 1st day of November, 1916, and all inconsistent laws are repealed.

This section is to be amended by adding after the word "repealed," in line 4, page 18, the following:

And that the Excise Board for the District of Columbia provided for and established under the act making appropriations to provide for the expense of the government of the District of Columbia for the fiscal year ending June 30, 1914, be, and it is hereby, abolished upon the taking effect of this act.

The date of November, 1916, is set as the time for this act to go into effect, because the present licenses of the saloons in the District expire at that time. Manifestly, with saloons abolished, there will be no need for the excise board.

Such, Mr. President, is an explanation of the bill for prohibition in the District of Columbia, with the amendments which I shall propose at the proper time. When the first water-power bill came before the Senate I gave notice that after the water-power bills had been disposed of I should call up another water-power bill, the prohibition bill for the District of Columbia, and I intend to do so at what I consider an opportune time. I shall, of course, not attempt to hold back other legislation which might be considered of immediate national importance; but I do not want this bill forgotten, nor do I want the Senate to be under the impression that we have given up in any way the idea of securing its consideration at a reasonably early date.

WATER-POWER SITES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 408) to provide for the development of water power and the use of public lands in relation thereto, and for other purposes.

Mr. ASHURST obtained the floor.

Mr. CHILTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arizona yield to the Senator from West Virginia?

Mr. ASHURST. I yield to the Senator.

Mr. CHILTON. I wanted to call up Senate joint resolution 98.

The PRESIDING OFFICER. Is there objection?

Mr. BORAH. Let us hear what it is.

Mr. CHILTON. It is the report of the Committee on Printing upon the printing of what is known as the report of the Industrial Relations Commission and certain parts of the evidence.

The PRESIDING OFFICER. With that information does the Senator object?

Mr. BORAH. No.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. CHILTON. What is the order of the Senate?

The PRESIDING OFFICER. The water-power bill.

Mr. CHILTON. But, I mean, what was the decision? Is it before the Senate now?

The PRESIDING OFFICER. After the request was made, the Senator from Idaho inquired to know what it was.

Mr. SHEPPARD. Mr. President——

The PRESIDING OFFICER. The Chair will state that the water-power bill should be temporarily laid aside before a new matter can be taken up.

Mr. SHEPPARD. I rose to make that suggestion. I know that if the Senator from Montana [Mr. MYERS] were here he would make that request, and he would also ask unanimous consent that no business be considered other than that proposed by the Senator from West Virginia, and that, as soon as it is disposed of, the consideration of the water-power bill should be resumed.

The PRESIDING OFFICER. Is there objection?

Mr. GALLINGER. Mr. President, in reply to the suggestion of the Senator from Texas, I desire to say that there is a little bill on the calendar which it will take about two minutes to pass—not any longer than the Senator's bridge bills take—and I hope I may be permitted to ask for the consideration of that bill.

Mr. SHEPPARD. The Senator knows that permission has been asked for the consideration of another bill.

Mr. GALLINGER. Yes.

Mr. SHEPPARD. I shall not object.

The PRESIDING OFFICER. Without objection——

Mr. WALSH. Mr. President——

Mr. JONES. Mr. President, just a moment. I do not want this bill laid aside with the distinct contract that only certain matters shall be considered.

Mr. GALLINGER. No; of course not.

Mr. JONES. I have a resolution that I want to have passed. It will take but a minute. I shall not object, unless it is insisted that as soon as this matter is disposed of the other bill shall be taken up.

Mr. THOMAS. Mr. President, while I am perfectly willing to see the water-power bill laid aside indefinitely, I do not think it is doing justice to the Senator having charge of that bill that any disposition be made of it during his temporary absence from the Chamber; and I certainly shall object, very largely on his account, to its indefinite laying aside.

The PRESIDING OFFICER. The proposition, as the Chair understood it, was to lay aside temporarily the water-power bill in order that the bill suggested by the Senator from West Virginia might be taken up. Without objection——

Mr. WALSH. Mr. President, I shall object.

The PRESIDING OFFICER. The Senator from Montana objects. The water-power bill is still before the Senate and open to amendment.

Mr. ASHURST. Mr. President, it is obvious to my mind that no one wishes to speak on the water-power bill at this time. Must we therefore adjourn? Why can we not lay aside the water-power bill for 20, 30, or 40 minutes and dispose of this report from the Printing Committee?

The PRESIDING OFFICER. It is a matter that rests entirely with the Senate.

Mr. WALSH. Mr. President, the Senator will understand perfectly well that I have a great desire to see the report published.

Mr. ASHURST. I know that.

Mr. WALSH. But I do not see any reason why the water-power bill should be laid aside on any consideration. We are ready to go on with the water-power bill.

Mr. ASHURST. I did not know that. I beg the Senator's pardon.

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum. If we are going to transact business, we ought to have some Senators here.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hardwick	McCumber	Sherman
Borah	Hitchcock	Martin, Va.	Smith, Ga.
Brandegee	Hughes	Martine, N. J.	Smith, S. C.
Chamberlain	James	Myers	Smoot
Chilton	Johnson, S. Dak.	Newlands	Thomas
Clapp	Jones	Norris	Thompson
Clark, Wyo.	Kenyon	Page	Vardaman
Cummins	Kern	Robinson	Wadsworth
Gallinger	La Follette	Saulsbury	Walsh
Gore	Lea, Tenn.	Shafroth	Warren
Gronna	Lippitt	Sheppard	

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Florida [Mr. FLETCHER] on public business. He is paired with the junior Senator from Idaho [Mr. BRADY]. This announcement may stand for the day.

Mr. CHILTON. I desire to announce the absence of my colleague [Mr. GOFF] on account of illness. I will let this announcement stand for the day.

Mr. ASHURST. I wish to announce the absence of the Senator from Ohio [Mr. POMERENE] and to state that he is paired with the Senator from Maine [Mr. BURLEIGH].

The PRESIDING OFFICER. Forty-three Senators have responded to their names. There is not a quorum present.

Mr. KERN. I ask that the names of the absentees be called.

The PRESIDING OFFICER. The Secretary will call the names of the absent Senators.

The Secretary called the names of the absent Senators, and Mr. JOHNSON of Maine, Mr. SWANSON, Mr. TILLMAN, Mr. TOWNSEND, and Mr. WORKS answered to their names when called.

Mr. OVERMAN, Mr. BANKHEAD, and Mr. CURTIS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-one Senators have responded to their names. There is a quorum present.

Mr. SHAFROTH. Mr. President, in the consideration of this bill I wish to call the attention of the Senate to the fact that this is the first of a series of bills that will follow. The program of the advocates of these measures is to adopt a leasing bill for water power on the public domain. The next proposition is to provide for the leasing of the coal, oil, gas, phosphate, potassium, and sodium lands of the United States.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Colorado yield to the Senator from New Hampshire?

Mr. SHAFROTH. I yield to the Senator.

Mr. GALLINGER. Does the Senator suggest that that will be the conservation program of Congress, that if this bill passes——

Mr. SHAFROTH. No; I do not know that it is. But those bills have passed the House of Representatives, and they have come over here, and I understand they are to be taken up for consideration.

Mr. GALLINGER. About how long does the Senator think it will take to get consideration of those bills?

Mr. SHAFROTH. I do not know. These bills are to be followed by still another one, in my judgment, because that is the program of the so-called conservationists. They adopted in their conventions the program that all the mineral lands, such as contain gold, silver, copper, lead, and zinc mines, are to be subject to a leasing system by the Federal Government. So there is to be a complete leasing system, according to their program.

Now, whether or not that will be carried out, or to what extent it will be carried out, I can not say, but unquestionably, when we consider this proposition of leasing the waters on the public domain by the Federal Government, waters that the Government has no more right or title to than you have, I think we are getting to a state where we ought to consider this question most seriously.

Mr. BORAH. Mr. President——

Mr. SHAFROTH. I yield to the Senator from Idaho.

Mr. GALLINGER. I have a further question.

Mr. SHAFROTH. I beg pardon; I thought the Senator was through.

Mr. GALLINGER. I have a further suggestion to make, because this becomes a practical matter with some of us. Even if this program should be partially submitted to the Senate, it is safe for us to send for our summer clothes, is it not?

Mr. SHAFROTH. I will not say that. I want to have a reasonable time to discuss this measure, because I think I am right. I am entirely satisfied myself, I am thoroughly convinced, that the passage of this bill will be a disaster to the Rocky Mountain States, and I think if people will lay aside their prejudices upon this matter I can convince them to that effect.

Did the Senator from Idaho desire to interrupt me?

Mr. BORAH. I was only going to say to the Senator from New Hampshire that the vice of this bill, as we see it and as suggested by the Senator from Colorado, is that it establishes a precedent for the leasing system which is to be carried to its completion by covering all the natural resources of the States known as the arid or public land States.

Mr. WALSH. I should like to inquire of the Senator from Idaho if we did not commit ourselves to the leasing system the other day in passing the Shields bill?

Mr. SHAFROTH. No; I do not think so.

Mr. WALSH. I ask the Senator from Idaho, not the Senator from Colorado.

Mr. SHAFROTH. Very well; I can explain that.

Mr. BORAH. I want to say to the Senator from Montana that I voted against the Shields bill.

Mr. WALSH. I know that, but——

Mr. BORAH. Wait a moment. I voted against it because I thought it had that principle involved in it.

Mr. WALSH. I supposed it had the approval of the Senator.

Mr. BORAH. The Senator from Colorado did not agree with me. The Senator from Colorado and I talked it over, and he did not think the principle inhered in that bill. But I felt otherwise and was constrained to oppose it for that reason, among other reasons.

Mr. MYERS. Mr. President——

Mr. SHAFROTH. I yield to the Senator from Montana.

Mr. MYERS. I think I am in a position to assure the Senator from Colorado and have the authority to assure him that there will be no other leasing or conservation measure at this session of Congress, except the water-power bill and the mineral-land leasing bill, which my colleague [Mr. WALSH] introduced. I do not think anyone has any intention of introducing any other measure. I am sure that no one connected with the administration has any idea of recommending any other measure.

Mr. SHAFROTH. Mr. President, the Senator seems to think that that is a little program of itself, but when you consider that we have in the western country 343,000,000 acres of public land, a very large part of which consists of coal lands, phosphate lands, potassium lands, sodium lands, gas lands, oil lands, and mineral lands, you can readily see that the second bill which he proposes to introduce is one of most vital consequence to the development of that section of the country. Inasmuch as I think these bills if enacted will retard development, and inasmuch as I think they will be destructive of good government by holding back the settlement of the public lands, I can not help but view with apprehension not only the presentation of this water-power bill providing for the leasing of the waters of nonnavigable streams by the Federal Government, but also I view with apprehension the other bill which he has mentioned.

Now, as to whether there is going to be a third bill which will provide for the leasing of the gold mines, the silver mines, the copper mines, and the zinc mines and other mines, I can not tell, but if the United States Government proposes to lease the lands to the extent named, it seems to me there is logically much more reason for it to proceed to the other extreme and lease the mines of the precious metals of the country.

Mr. BORAH rose.

Mr. SHAFROTH. I yield to the Senator from Idaho.

Mr. BORAH. Mr. President, I see the same consolation in the suggestion of the Senator from Montana that there is for a man who is condemned to die and is given 30 days' reprieve. If this bill is passed at the present session and another passed at the present session and then the third and fourth are to come at the next session, there is very little consolation in that fact to the West, because this is the lifetime struggle with those States. If the precedent is to be established and the system is to be inaugurated it had all just as well be done at this session as at a later session. We are not asking for a reprieve, we ask for acquittal. We think we can run our affairs as States and object to the surveillance proposed.

Mr. SHAFROTH. It has been admitted on the floor of the Senate that the National Government has no title or right whatever to the waters of nonnavigable streams. Yet as some may doubt the verity of the admission, I want to present one authority which can not be questioned, to show that the United States Government never had and never could have had, considering our dual form of Government, any right whatever to any of the waters of the nonnavigable streams. In fact, it has no title to the navigable waters except of a negative nature, that is to prevent obstructions to navigation in navigable streams. So far as the nonnavigable streams are concerned it is clear that there is no title, right, or interest whatever in the United States to the waters of nonnavigable streams in the States of the Union whether they pass by private or Government lands.

Mr. President, I wish to state that the original States owned their own water, and that the United States Government never acquired any right, title, or interest in the nonnavigable streams of the original 13 States. It is almost axiomatic to state it. There has been added to that statement certain acts of Congress which make it apply to the new States because, for instance, when Colorado was admitted into the Union Congress passed an enabling act, which contained the following:

> That the inhabitants of the Territory of Colorado included in the boundaries hereinafter designated be, and they are hereby, authorized to form for themselves, out of said Territory, a State government, with the name of the State of Colorado, which State, when formed, shall be admitted into the Union upon an equal footing with the original States in all respects whatsoever.

That was the language used in the enabling acts of all the other States admitted into the Union.

Mr. President, those words have been construed by the Supreme Court of the United States. The language is so strong that the court has said repeatedly the exact rights which these 13 original States possessed were given to all the States subsequently admitted into the Union. That same language was used even in the admission of States immediately after the formation of the Federal Constitution. Even the deeds that were passed by Virginia and by Connecticut to the United States for the land they owned west of the Allegheny Mountains contained that language. The Supreme Court has held that that language places the new States upon an exact equal footing with the original States in every respect whatsoever.

Now, inasmuch as it must be conceded that the United States Government never owned the waters of any of the 13 original States, and each of the States admitted into the Union after that time contained the clause of equality in every respect whatsoever, it seems to me to be absurd for any person to contend that the United States Government obtained by reason of the formation of the Union any right to any of the waters of such streams, or even of the navigable streams, except the right under the interstate commerce clause of the Constitution to prevent obstruction to invasion.

Mr. President, upon that matter we find that the Supreme Court of the United States has said that the Federal Constitution contains no grant or title to those waters. The United States Constitution is a grant of powers by the States and all the powers not granted are reserved to the States, and that consequently not having granted any right to the waters of a State they are reserved to the State.

Then what right has the Government to enter into a State and lease the waters thereof when it does not own the same?

Mr. President, I wish to call attention to the language used in the case of Kansas *v.* Colorado in 206 United States Supreme Court Reports at page 46. This is the language that is used in the syllabus, and it is borne out in the opinion of the court:

> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty;—

It can not go into a State and exercise sovereignty over the affairs of that State because it is not contained in the United States Constitution, and the State has not by its act granted any such right. The State does occasionally grant the right of sovereignty over land in the State by a special act of the legislature of that State. The land upon which a United States public building is located is expressly excepted from the sovereignty of the State by act of its legislature. If a man is injured or killed on the property of the United States Government dedicated to the public use, the offender is not tried in the State court; he is tried in the United States court. The United States exercises sovereignty upon that smaller piece of land, but it takes an act of the legislature specifically to confer that jurisdiction. Every time a Government public building is erected in a city or town the legislature of such State invariably grants and cedes jurisdiction thereof to the National Government.

> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the tenth amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people; and that if in the changes of the years further powers ought to be possessed by Congress they must be obtained by a new grant from the people.

Mr. POINDEXTER. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Washington?

Mr. SHAFROTH. I want to say if Senators want to have the rule adopted of leasing waters that do not belong to the Govern-

ment they should, in the language of this decision, obtain a new grant from three-fourths of the States of the Union.

I yield to the Senator from Washington.

Mr. POINDEXTER. I do not think myself that a question of sovereignty is involved one way or the other in this act. It seems to me it is simply a matter of contractual right, of riparian ownership. But supposing that the question of sovereignty were involved, does not the Senator think that section 13 of the act, which provides—

That nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water—

completely avoids any conflict between the Federal Government and the States and is a full recognition of all the rights of the States?

Added to that question, in order not to break up the Senator's argument any further, I should like to make just this comment: So far from the question of sovereignty being involved, it seems to me nothing more is involved here than can be by a private individual——

Mr. SHAFROTH. Now, Mr. President——

Mr. POINDEXTER. Just one second, and I will sit down. The reason I am stating this is because I should like to have the Senator discuss it while he is on that subject.

Mr. SHAFROTH. I shall be glad to do so.

Mr. POINDEXTER. The humblest private citizen in the State who owns the site of a dam on a nonnavigable stream and has the fee simple title to the abutting shore line and the bed of the stream, where it is desired to erect a dam, would have a right to erect a dam there, so long as he complied with the laws of the State which this act requires the lessees under this act to do. If he did that, would he not own the power that was developed by the waterfall that is created? Would the ownership and right to use that power by this private citizen involve any question of sovereignty? Is it not simply a property right instead of a governmental right?

Mr. SHAFROTH. No, Mr. President, it is not a property right alone. If this were a property right a different proposition would be presented. We had the property right presented in the Shields bill. The Senator from Washington absolutely opposed every effort to make that a property right. We there provided that the United States Government should charge nothing for the water which it did not own, and that it should charge simply the market value of the land as in a suit in condemnation against a private citizen. But here the United States Government proposes to make a charge upon the waters which do not belong to the United States Government. It proposes not to take the amount of money that would be awarded for a site at its actual fair valuation, ascertained and determined in a condemnation proceeding. Oh, no; it is proposed to impose some kind of a charge dependent upon the water power developed, and that water has been held by the Supreme Court of the United States to belong to the States. But whenever we attempt to do that we invade the sovereignty of the State, and that is the reason why the question of sovereignty is involved in this particular bill.

Mr. BORAH. Mr. President——

Mr. SHAFROTH. But, Mr. President, I want to continue reading the balance of this syllabus:

While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State except to preserve or improve the navigability of the stream; that the full control over those waters is, subject to the exception named, vested in the State. Hence the intervening petition of the United States is dismissed, without prejudice to any action which it may see fit to take in respect to the use of the water for maintaining or improving the navigability of the river.

Mr. President, I want to state to the Senator, if he has not read this decision, just what are the facts of the case. The State of Kansas commenced a suit against the State of Colorado to prevent the Colorado authorities from diverting the waters of the Arkansas River to lands in the State of Colorado, claiming that her riparian owners should have the right of the water flowing thereby. The Colorado authorities resisted the suit on the ground that riparian rights did not exist in the State of Colorado; that by virtue of the provisions of our Constitution and by the known usages of our State for years and years, the doctrine of riparian rights did not prevail in the State of Colorado; that we had the right to divert the water and to take it out of the stream and to use it for the purpose of making greater crops upon the lands adjacent to the river. The United States came in as an intervenor. It claimed that it had an interest by virtue of the act of 1902 which provided that the United States Government should construct irrigation works under the reclamation act, as it was termed, and they filed a petition in intervention, claiming certain rights in these waters. The court, after a long period of time and after elaborate arguments, held that the United States had no right whatever to intervene in that case as to those waters, because it had no right or title in or to the waters.

Mr. WORKS. Mr. President——

Mr. SHAFROTH. I yield to the Senator from California.

Mr. WORKS. And the purpose of this bill is to give the United States Government just what was denied to it by that decision.

Mr. SHAFROTH. That is exactly what is proposed to be given.

The Senator from Washington must realize that if the Congress of the United States were to pass a direct act providing for a charge for the use of the water in the State of Colorado of 25, 50, 75 cents or $1 a unit of horsepower the Supreme Court of the United States would declare it unconstitutional. Why?

Mr. MYERS. I should like to ask the Senator a question.

Mr. SHAFROTH. I yield for that purpose.

Mr. MYERS. Does the Senator claim that you can do, by indirection, what you can not do by direction in law?

Mr. SHAFROTH. That is what you claim and what I contend you can not do.

Mr. MYERS. You claim, then, that the bill would be unconstitutional?

Mr. SHAFROTH. It may be that the courts would deny its constitutionality, but practically the Government would enforce the act. We have had contests in which the United States were on one side and it meant bankruptcy to the people who undertook to resist.

Mr. MYERS. Surely, if the people are denied to make a charge by the Federal Government for the use of State waters, the courts would declare the act to be unconstitutional.

Mr. SHAFROTH. There is always included some limitation as to time or something of that kind, although the object of the legislation may be perpetual use. If we were to pass a law by the Congress of the United States now that the waters of the State of Colorado should be subject to leasing by the Federal Government in direct terms, I have not the slightest doubt the Supreme Court of the United States would declare it unconstitutional.

Mr. MYERS. If this bill, then, would undertake to do it directly, the Senator may be sure that it would be held to be unconstitutional.

Mr. SHAFROTH. It does it, according to my view, indirectly, and that is where the Senator differs from me in that respect. Why? I am also satisfied it would be unconstitutional for Congress to pass a law saying that the United States Government shall never relinquish or dispose of its property in a State. Lands were not given to the United States except as a trust for the purpose of disposing of them.

If you were to put it in that language, I have not the slightest doubt that the Supreme Court of the United States would declare such an act to be unconstitutional. The danger of such an outcome is attempted to be removed by saying that for a period of so many years this power of ownership may be exercised. The judges of the Supreme Court have said, in the only case in which they have passed upon the subject, that "five years is a very limited time in the history of a nation. We can not say, and will not say, that that is not within the scope of the power of Congress." Although in the same decision they admit and declare that the United States Government is vested with this power of holding the public domain in trust for temporary purposes only and for the purpose of disposing of the land. They can well say, and some do say, that this may be for the purpose of getting the lands of the United States in better condition to dispose of, and, of course, as a means to that end, they could say it is within the power of Congress, but the Senator from Montana [Mr. MYERS] knows that under this bill the object and purpose is to have a leasing system of the waters of the States forever.

Mr. MYERS. Oh, no; I disclaim any attempt to lease the waters of the State. The Senator can not point out anything in the bill which will bear out that assertion.

Mr. CLARK of Wyoming. Mr. President, in this connection I should like to ask a question of the Senator from Montana.

Mr. SHAFROTH. I yield to the Senator from Wyoming for that purpose.

Mr. CLARK of Wyoming. I should like to ask the Senator whether or not the purpose of this bill is to put in the General Government the control of the waters which are the subject matter of the bill?

Mr. MYERS. Not at all.

Mr. CLARK of Wyoming. The Senator disagrees, then, with the department which has this matter under its immediate charge.

Mr. MYERS. I do not care with whom I disagree. I agree with the bill, which says there is no intention to control or to interfere with the waters of the States. I am satisfied to agree with the printed terms of the bill in its plain language.

Mr. BORAH. May I ask the Senator from Montana a question?

Mr. MYERS. Yes.

Mr. BORAH. Does the Senator from Montana admit that before the National Government can utilize this water for power purposes it must go under the State law and make application for the water and secure it by an appropriation the same as an individual would have to do?

Mr. MYERS. The Federal Government is not undertaking to utilize any water at all. It furnishes the land, and the applicant must go to the State authorities to get the water.

Mr. BORAH. Suppose that in the development of power under this bill it should become essential for the National Government to exercise control over some of the water, could it do so without making an application to the State authorities for the purpose of appropriating it?

Mr. MYERS. Under the terms of this bill I can not conceive of any contingency in which the Federal Government would undertake to control the waters of a State.

Mr. BORAH. Well, does the Senator believe that the National Government can acquire any interest to the use of the water other than for the purpose of navigation, except that it go as an individual and make application to the State and appropriate it?

Mr. MYERS. No; I do not believe it can acquire such interest in any other way.

Mr. WORKS. Mr. President——

Mr. SHAFROTH. Mr. President, I yield to the Senator from California.

Mr. WORKS. Besides the fact that this bill undertakes, in a sense, to control the use of the water by imposing a charge based upon the use of the water itself, it undertakes to regulate the means by which the water may be taken out of the stream and diverted; it undertakes to determine when the work shall be commenced and when it shall be completed, all of which is within the power and the jurisdiction of the State. Beyond that the Government, in the end, proposes to take over the whole thing itself and to operate the plant.

Mr. SHAFROTH. Mr. President, I thank the Senator from California for his statement. Can it be possible that the Senator from Montana [Mr. MYERS] can contend that this is not an interference with the waters of the States? If the Government makes a charge for the land only, as the Senator says that it does, it would be the price of the land, not that there shall be paid by any company undertaking an enterprise of this kind a charge of, say, a hundred dollars a horsepower—it is limited in the bill, it is true, to, I think, 40 cents or 50 cents, perhaps less than that——

Mr. MYERS. Twenty-five cents.

Mr. SHAFROTH. Twenty-five cents. Suppose that is true; the small amount of money charged does not determine the principle. If the Federal Government has a right to dispose of this, it has a right to exact any requirement that it may see fit to make. The charge of a hundred dollars a horsepower would conclusively show it was not for the value of the land but for the water used. The mere fact that the price is low makes it simply a sugar-coated pill which we have to take. It is an interference with the waters of the streams; the price charged is measured in water. The bill does not say that we shall charge the value of the land. That was what was said in the Shields bill, and that is the very thing which the Senator from Washington made speeches against. He wanted something charged by the Federal Government more than the value of the land, and he has got it in this bill; and that is an interference upon the part of the Federal Government with the rights of the States in this matter.

My MYERS. I desire to call the attention of the Senator to an amendment offered by the committee to section 8 of the bill as reported. The section now reads:

The Secretary of the Interior is authorized to specify in the lease and to collect charges or rentals for—

For what?

all land leased, which charges or rentals shall be based on the value of the land—

And so forth.

Mr. SHAFROTH. Well, Mr. President, I have not yet seen the amendment to which the Senator is referring. However, as a matter of fact, you invade the right of the State when you attempt to say that the power of the State shall not exist as to eminent domain, which provides for just compensation for property taken, which is always in a lump sum. The State has some right to say what shall be done with relation to a public enterprise of this kind. Eminent domain does not exist in the National Government; it exists solely and purely in the State governments. It is the right of the State to determine how these lands shall be condemned, and the Federal Government absolutely interferes with the sovereignty of the State when it attempts to provide a different mode, even if it is sugar-coated, as I have before stated.

It is a question of power, and the decisions of the Supreme Court are to the effect that the right of the United States to the water does not exist. You can not avoid the difficulty by saying that the United States owns the land and can prescribe that it shall be used in a certain way so as to deny the right of the State to the water. If you are going to be fair, you should not exercise those powers which, it seems to me, were retained to the States themselves.

Mr. CUMMINS. Mr. President, I am not thinking so much of the bill which is under consideration as I am of a statement which has just been made by the Senator from Colorado. It rather conflicts with my idea of the powers of the General Government, and I can not allow it to pass without calling it to his attention. The Senator has just said that the United States has no power of eminent domain.

Mr. SHAFROTH. Yes, sir.

Mr. CUMMINS. Does the Senator mean to say that if the United States desired to establish a post office in the State of Colorado for the transaction of its business it could not acquire the land on which to do it unless the State of Colorado consented?

Mr. SHAFROTH. Yes, sir. Let me explain——

Mr. CUMMINS. Just a moment——

Mr. SHAFROTH. When the Federal Government does that, it does it by virtue of the power of the State. It has to come in and set forth that it needs the land for a public purpose, and it invokes the power of the State. As I have said, the power of eminent domain exists in the State, and any citizen or any corporation or any other government can invoke that power, but the power is not in the Federal Government any more than it is in the individual; it is vested in the State government, which provides the machinery by which the condemnation can be made.

Mr. CUMMINS. So that the United States Government can not carry out any of its functions; it can not establish a post road or a post office or a customhouse, or perform any of the functions given to it by the Constitution, unless the State in which the function is to be performed gives its consent?

Mr. SHAFROTH. The way I have indicated is the way in which it is done. When a post office is established the Government does not take possession of the land by virtue of any inherent power in the Federal Government; it takes it by virtue of condemnation, if it wants to take it in that way, under State laws and by virtue of the authority of the State. I have a decision here which is directly in point.

Mr. CUMMINS. But the Senator from Colorado made a much broader statement than that.

Mr. SHAFROTH. I did not mean to do so.

Mr. CUMMINS. The Senator from Colorado asserts practically that the Federal Government is dependent upon the laws of the States for the execution of the powers which are given to the General Government in the Constitution. I do not believe that that is good law.

Mr. SHAFROTH. Let me read a few lines on that point right here from Pollard's Lessee *v.* Hagan (3 How., U. S., p. 223). It is a leading case which has been affirmed time and time again. I read from it as follows:

The right which belongs to the society, or to the sovereign, of disposing, in case of necessity and for the public safety, of all the wealth contained in the State is called the eminent domain. It is evident that this right is, in certain cases, necessary to him who governs, and is, consequently, a part of the empire or sovereign power. This definition shows that the eminent domain, although a sovereign power, does not include all sovereign power, and this explains the sense in which it is used in this opinion. The compact made between the United States and the State of Georgia was sanctioned by the Constitution of the United States, by the third section of the fourth article of which it is declared that "new States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States without the consent of the legislatures of the States concerned, as well as of Congress."

When Alabama was admitted into the Union on an equal footing with the original States, she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States, for the temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative.

Mr. CUMMINS. Precisely. There is nothing there that conflicts with the suggestion that I make. I say that with respect to any power that is given to the United States under the Constitution it can execute that power against the will of the State, and certainly without the consent of the State. The view taken by the Senator from Colorado would mean that the United States could not march its Army across a State without its consent.

Mr. SHAFROTH. Oh, no; there are certain provisions of the Constitution which relate to that.

Mr. CUMMINS. There are none that provide for that definite thing, but simply that we have a right to maintain an Army.

Mr. SHAFROTH. There are certain rights that are granted in the Constitution to the United States; there is no doubt about that; but all of the powers given the United States in the Constitution were grants from the States.

Mr. WORKS. Mr. President——

Mr. SHAFROTH. Just let me finish this one sentence from the decision, and then I will yield to the Senator:

> And, if an express stipulation had been inserted in the agreement, granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in the cases in which it is expressly granted.

Mr. CUMMINS. Precisely; and it is inferentially granted in connection with the execution of the granted powers of the United States.

Mr. SHAFROTH. The court specifies wherein those powers are granted:

> By the sixteenth clause of the eighth section of the first article of the Constitution, power is given to Congress "to exercise exclusive legislation in all cases whatsoever, over such district, not exceeding 10 miles square, as may by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." Within the District of Columbia, and the other places purchased and used for the purposes above mentioned, the national and municipal powers of government, of every description, are united in the government of the Union. And these are the only cases, within the United States, in which all the powers of government are united in a single government, except in the cases already mentioned of the temporary territorial governments, and there a local government exists. The right of Alabama and every other new State to exercise all the powers of government, which belong to and may be exercised by the original States of the Union, must be admitted, and remain unquestioned, except so far as they are, temporarily, deprived of control over the public lands.

Mr. President, it seems to me that that principle is clear, and that when it is invaded it must be by the consent of the States. Of course, if the United States Government wants to erect a post office we are all eager to get one, and the grant or cession of the site is made by the legislature invariably without any question whatever, and the land is exempted from taxation forever, but to say that eminent domain can be exercised by the United States would mean that it could absolutely own and control the State, and that could never be permitted under the dual form of government which we have.

Mr. WORKS. Mr. President——

Mr. SHAFROTH. I yield to the Senator from California.

Mr. WORKS. The Senator from Iowa [Mr. CUMMINS] fails to distinguish between the power of eminent domain, which is a sovereign power, and the right of the Government or of anybody else to bring an action to condemn land. The two are entirely different. Of course, the Government of the United States can bring an action to condemn land in California or anywhere else for governmental purposes. There is not any doubt about that, but so may any corporation do exactly the same thing. It is not a sovereign right at all. It is simply a right to bring an action under the laws of the State.

Mr. CUMMINS. What I asserted and what I still assert is that in the execution of a granted power in the Constitution Congress can take the private property of citizens in any State for those purposes.

Mr. WORKS. I think the Senator is wrong about that.

Mr. CUMMINS. Suppose a State had not provided any plan for the condemnation of property?

Mr. WORKS. The States provide how property may be condemned within the States——

Mr. CUMMINS. But suppose a given State has not?

Mr. WORKS. And the Government may take advantage of that, just the same as anybody else.

Mr. CUMMINS. Suppose a State has not done so; suppose the State were to repeal every law relating to the condemnation of property for public use and there was no machinery provided at all for that purpose; it is impossible for me to believe that the operations of the Federal Government must cease for the reason that no State has provided a proceeding for taking private property for public use.

Mr. SHAFROTH. Why, Mr. President, the constitution of the State of Colorado, as well as the constitution adopted by every other State, had to be approved by Congress before the State could be admitted into the Union, and that expressly provides for the exercise of the right of eminent domain. The Congress of the United States could have refused to admit the State of Colorado unless such a provision were contained in its constitution.

Mr. CUMMINS. But the State of Colorado could repeal that provision at any time.

Mr. SHAFROTH. It is a constitutional provision, and further it is one of those concessions which no State has ever refused to give to the National Government. It allows it to come in as a suitor; and that gives the right which exists in the United States Government.

Mr. CUMMINS. I understand that is the way in which it is done; but it is impossible for me to conceive that the Government of the United States depends for its existence upon the remedies which may be provided in the States for the assertion of an undoubted right.

Mr. SHAFROTH. And yet, upon the other hand, if the inherent power exists, where is the clause of the Federal Constitution that gives it as a grant to the United States? It can not be pointed out; and the decision of the Supreme Court from which I have quoted says it does not exist in the Federal Government. If the United States Government has a right to exercise eminent domain, which is defined in this very decision as "the right which belongs to the society, or to the sovereign, of disposing, in cases of necessity, and for the public safety, of all the wealth contained in the State," you can readily see that the Government of the United States could wipe out a State, although this Government is the creation of the States themselves. The States never relinquished that power; they were too jealous of that right, and consequently it does not exist in the Federal Government.

Mr. WORKS. If the United States Government should acquire land in the way suggested by the Senator from Iowa it would be simply usurpation and nothing else. It must acquire title to property by legal means in this country, I hope.

Mr. SHAFROTH. Now, Mr. President, I have been diverted from the second part of my remarks.

Mr. BRANDEGEE. Mr. President, will the Senator allow me to ask the Senator from California a question?

Mr. SHAFROTH. Certainly; I yield.

Mr. BRANDEGEE. I want to ask the Senator from California when the legislature of a State has conferred upon a public-service corporation, for instance, the right to take land for the accomplishment of the purpose for which it is chartered under a legal proceeding, does he not consider that to be the exercise of the right of eminent domain?

Mr. WORKS. Yes; but the sovereign power comes from the State.

Mr. BRANDEGEE. The sovereign power is the State.

Mr. WORKS. The sovereign power is the State in that instance, and the citizen is simply authorized to take advantage of it under certain terms and conditions by resorting to the courts.

Mr. BRANDEGEE. He is exercising the right of eminent domain as the agent of the State in that case.

Mr. WORKS. Certainly.

Mr. BRANDEGEE. I understood the Senator was trying to draw some distinction between the permission to bring a suit, as he stated, and the exercise of the right of eminent domain.

Mr. WORKS. No; not at all. I was trying to draw a distinction between the sovereign right as it exists in the State, and the right of the citizen to maintain an action to condemn land, which is quite another thing.

Mr. BRANDEGEE. As I understand, Mr. President, no citizen has a right to bring an action to condemn land unless he has been authorized by the sovereign.

Mr. WORKS. Certainly not. That is the position I am taking.

Mr. BRANDEGEE. So that there is no distinction between the right which exists and the right which does not exist at all.

Mr. WORKS. Not at all.

Mr. BRANDEGEE. Now, let me ask a question of the Senator from Colorado, to whose argument I have listened very patiently. Will he be kind enough to tell me what there is in this bill which authorizes the Government to invade the right of the State of Colorado to control the nonnavigable waters of that State?

Mr. SHAFROTH. By denying the right of eminent domain. Whenever any company or any person is legally constituted to bring a condemnation suit under the laws of the State, they have a right to have the land sought at the valuation that would be placed upon it in a condemnation suit, and whenever the Federal Government attempts to vary that right it abridges the power of eminent domain of the State. If it can say "We will require the payment of 25 cents a horsepower," it can say "We will require $1,000 a horsepower." It differs only in degree; if it has the power in one instance, it has the power in the other. It is a fact that it seizes the law of eminent domain and says, "You can not exercise the right of eminent domain which you have set forth in your statutes and in your constitution." For that reason, the pending bill is an invasion of the sovereignty of the State.

Mr. BRANDEGEE. Mr. President, I may be very dense about this thing, but I do not follow the Senator in his reply. I do not understand him. What I ask the Senator is this: The Government owns certain public lands; the Senator does not deny the authority of the Government to sell them, does he?

Mr. SHAFROTH. No; I do not deny that it owns them for temporary purpose, as stated by the decision from which I have quoted.

Mr. BRANDEGEE. Of course the Senator does not deny that it owns them, because it does own them. Does he deny that the Government has a right to sell that which it owns, namely, the public lands?

Mr. SHAFROTH. Certainly it has.

Mr. BRANDEGEE. It has that right?

Mr. SHAFROTH. Yes.

Mr. BRANDEGEE. Very well. Does the Senator deny that the Government has the right to lease its public lands?

Mr. SHAFROTH. Yes; I do.

Mr. BRANDEGEE. I get something definite now, Mr. President.

Mr. SHAFROTH. I deny that, because a leasing system means permanent holding, because a leasing system does not provide for disposing of the land. A leasing system is the best form of permanent holding that can be devised, and I say it is contrary to the spirit of our institutions. It may be an unlimited lease. The Supreme Court has decided the matter so far as the five-year lease is concerned, and it may be that in a question of that kind the court would decide to recognize the acts of Congress; but if you were to put a law on the statute books of the United States to the effect that the public land shall be leased forever, I have not any doubt that it would be declared unconstitutional.

Mr. BRANDEGEE. Whether the power to lease perpetually would be included in the power to sell I do not know. Ordinarily the greater includes the less. However that may be, there is nothing in this bill that proposes a perpetual lease, as I read the bill.

Mr. SHAFROTH. It proposes that. That, of course, is the policy.

Mr. BRANDEGEE. I do not see the word "policy" in the bill. What I see in the bill is——

Mr. SHAFROTH. There is no provision that at the end of 20 years or 50 years the leasing shall end; oh no; it is a proposition that these leases shall be extended and renewed forever and forever. That is what it means, and therefore it institutes a permanent leasing system.

Mr. BRANDEGEE. Of course, if the leases should be renewed forever and forever, I think, the tenure would be fairly permanent; but the bill, as I understand, provides an alternative. If the lease is not renewed, it provides a process by which the Government may take over the plant and the land and the fixtures which the lessee has placed there.

Mr. WORKS. Mr. President——

Mr. BRANDEGEE. Just a moment. But, as I recollect the remarks of the Senator from Montana [Mr. MYERS], yesterday or day before he referred to a decision of the Supreme Court of the United States, in which they held that the General Government had a right to lease its public land. Whether it was for a period of 5 years or 10 years would not seem to me a question upon which the Supreme Court would decide "yes" in one case and "no" in another. If they have the right to lease for 10 years, they have the right to lease for 50 years. So far as I can see, there is nothing unconstitutional in that regard in this bill.

Mr. WORKS. Mr. President——

Mr. BRANDEGEE. I can hardly yield to the Senator, because I am myself the recipient of the courtesy of the Senator from Colorado.

Mr. WORKS. I merely want to ask the Senator from Connecticut a question. Suppose under this bill the Government should lease the land for 50 years, fixing the price to be paid according to the amount of water used or the power developed, and should provide when the dam, or whatever structure may be necessary, shall be constructed, when the work shall be commenced and when it shall be completed, and the lessee takes possession under a law of that kind, does the Senator think that under the laws of California some utility corporation could condemn the land for the purposes of irrigation, for example, under those conditions?

Mr. BRANDEGEE. Mr. President, the Senator is raising a collateral question.

Mr. WORKS. No; I am not, Mr. President. I beg the Senator's pardon. That is the very issue that is involved in this bill.

Mr. BRANDEGEE. It may be one of the issues involved in the bill or one of the objections to the bill which the Senator may have in mind that the State of California may not be able to condemn the public lands of the Government which the Government has leased to somebody for a period of years. Whether they have that right or whether they do not is a matter of law, which it is not necessary to consider in connection with this bill, so far as the authority of Congress to pass it is concerned. The fact, Mr. President, that under section 8 the "charges or rentals for the land leased may, in the discretion of the Secretary, be measured by the power developed and sold" is no argument at all against the power of Congress to lease the land. They could well say that the amount charged for the lease of the land shall be based upon its availability for a water-power site, or upon its availability for anything else; and they can put into the lease, if they have a right to lease the public lands, any conditions that they have a mind to, or that the two parties have a mind to contract for, as to how a dam shall be built, or how power shall be distributed. If the permittee or the lessee has a mind to agree to those conditions, it is nothing but a matter of contract between the parties, as it seems to me.

Mr. WORKS. Mr. President, the Senator has not quite answered my question, because he has not included in what he has said all of the conditions that are embraced in the question. I think, however, the Senator is utterly mistaken in the view he takes that the Government may, by a mere condition in a lease, deprive a State of its sovereign power to control the waters of the stream; and that is precisely what they are attempting to do. It has been insisted upon heretofore, when we were discussing the other bill, that that might be done; but I think the Senator is mistaken in respect to that particular feature of the bill.

Mr. BRANDEGEE. Of course I may be mistaken as to all of them. I do not know. I simply have an opinion about it. I say because the bill provides that the compensation or lease money for the land may, in the discretion of the Secretary, be determined by the number of horsepower developed on the water which flows by the land, that is a reasonable rule, if Congress wants to make it, for the determination of the lease money. The fact that it says that does not at all constitute an invasion upon the right of the State to control its own water power. In fact, the bill in two sections distinctly provides that the lessee must have first obtained from the State the right to exercise whatever rights he is going to exercise in the water power. The Government owns the land by the water and says: "We will lease to that man." Now, I can not see what there can be unconstitutional about that.

Mr. WORKS. The Senator entirely overlooks the fact that the matter of fixing the rates that shall be charged for the use of the water, whether it be for the development of power or for irrigation or for anything else, is a power that rests with the State. Here is an attempt to fix the value of the water that is to be used upon the basis of the amount of power that it will develop, which is a distinct invasion of the rights of the State.

Mr. SHAFROTH and Mr. MYERS addressed the Chair.

Mr. BRANDEGEE. There is no right of the State involved. A contract is being made between the United States Government and an individual or a municipality for the lease of real estate; and the two parties agree that one of them will pay, as rental for that real estate, an amount to be determined by the number of horsepower to be developed by the water in an adjoining stream. They might just as well agree, and could legally agree, that the rent should be determined by a board of appraisers upon the basis of the population of the State, if they had wanted to do so.

Mr. SHAFROTH. No; let me call the attention of the Senator to the fact that while he is talking about the two contractual parties, he entirely overlooks the State. The State has an interest here, and it has the power to say that in certain proceedings certain rules shall be followed in determining what the land is worth.

Mr. BRANDEGEE. The bill leaves the State just where it stands now, as I read the bill, because the bill provides that the Secretary of the Interior can not lease the public lands under this bill except in accordance with the laws of the State where the lands lie, and that they can not be leased by anybody who has not obeyed the laws of the State as to the use of the waters within that State. How can that constitute an invasion of the powers of the State to control the water?

Mr. SHAFROTH. Let me ask the Senator from Connecticut a question. Suppose, up in the State of Connecticut, the United States Government should buy a tract of land of, say, 300 acres, a natural water-power site. Can it be possible that when a person should want to improve that water-power site and construct a power plant there, the United States could step in and say: "I require so much per horsepower that may be generated there, and if you do not pay that you can not erect the plant"?

Mr. BRANDEGEE. Why, Mr. President, if the United States should buy land in the State of Connecticut, it would have all the rights to the use of that real estate that a private proprietor would have.

Mr. SHAFROTH. Certainly.

Mr. BRANDEGEE. The Senator is aware that the laws as to water rights in the Eastern States are entirely different from the laws as to water rights in the semiarid States.

Mr. SHAFROTH. Not with respect to that.

Mr. BRANDEGEE. Absolutely so.

Mr. SHAFROTH. The Government owns these lands in the State of Colorado as a proprietor only, and does not exercise any sovereignty over them. Consequently it is just the same as if it were to buy 300 acres on the Connecticut River and a person should come by and say, "I want that land for a power site." Is it possible that the United States Government could say: "I will not let you have it unless you give me a certain percentage of the water that flows by here"? Why, certainly not. It has only the rights of an individual. Therefore this bill, which attempts to make its rights different, invades the sovereignty of the State, and it should not be permitted to do it.

Mr. BRANDEGEE. Mr. President, I repeat that if the United States Government buys land in a New England State it has just the same rights—no more and no less—that a citizen would have. The citizen in the Senator's State has no such rights in the nonnavigable waters flowing over the lands which he owns as the citizen does in my State.

Mr. SHAFROTH. Oh, yes.

Mr. BRANDEGEE. Well, I say, oh, no.

Mr. SHAFROTH. So far as this right of condemnation is concerned, he has.

Mr. BRANDEGEE. I am not talking about condemnation.

Mr. SHAFROTH. Of course, the question as between riparian owners does not affect this question in any way whatever.

Mr. BRANDEGEE. In the Senator's State the State controls the waters.

Mr. SHAFROTH. Certainly.

Mr. BRANDEGEE. The proprietor does not. In my State the proprietor owns to the center of the stream. If the stream is on his own land, he has the right to dam it up without saying anything to the State. He has the right to use it for domestic purposes and for power purposes. The rule is entirely different in the Western States; but that is a side issue. That has nothing to do with this matter.

Mr. SHAFROTH. Then is it possible that in order to establish a water-power plant in the Senator's part of the country it becomes necessary to condemn the right of every person along the river, from the source to the mouth?

Mr. BRANDEGEE. Why, Mr. President, you can not dam up a stream in my State to make an ice pond without compensating the proprietors lower down on the stream for whatever water you hold back from them.

Mr. SHAFROTH. I will state to the Senator that every one of the States that is to be the subject of this bill has the rule as it exists in my State, and not as it exists in the Senator's State.

Mr. BRANDEGEE. I agree to that, and I agree that it is perfectly immaterial. The Senator is lugging in the law about the New England water rights, which has nothing to do with this bill. I did not bring it in. I say to the Senator that under the terms of this bill, as I read it and in my opinion, every State will have the control of its waters after the passage of this bill just as much as it does now.

Mr. SHAFROTH. Oh, no; it will not.

Mr. BRANDEGEE. Only the United States, having leased a piece of land bordering upon a stream in a semiarid State, collects as rent, by agreement with the lessee, a sum which may, under the language of the bill, in the discretion of the Secretary of the Interior, be equivalent to so much a horsepower as developed by the power plant that is located there. The fact that you refer to the number of horsepower that may be developed as a possible measure of the rental money under a lease of real estate can not, it seems to me, be construed by any clear-minded man as an invasion by the United States of the water rights of the State.

Mr. SHAFROTH. Why, the Senator admits the power that he claims exists, regardless of whether it is double or treble or quadruple the value of the land. Now, if that is true, we are absolutely changing the power of eminent domain, which says that the value shall be as fixed under the procedure of the State and as defined by the State; and whenever we do that we are taking away the sovereignty of the State.

Mr. BRANDEGEE. It is not a question of eminent domain. It is a question of how much the lessee shall pay to the United States Government. There is no condemnation proceeding whatever involved. In the case suggested by the Senator from California [Mr. WORKS], a supposititious case, he asked what would be the situation if, after the power plant had been built upon the land leased by the Government to the person who had previously obtained from the State of California the right to use the water, California as a State wanted to come in and condemn the whole property, the land owned by the Government, subject to a lease to a citizen who had the right under the laws of California to use the water. That is a question which I would want to look up, perhaps, before I answered it. Perhaps the Senator has looked it up.

Mr. WORKS. The Senator from Connecticut is quite right in saying that the Government of the United States has the right to make such a contract as it desires to make respecting this land by way of lease, if that is not in violation of the Constitution, or by way of sale, just the same as any private individual can do, and to no greater extent. It is simply a proprietary owner of the land. As such, in these irrigated States it has no control over the water. It has not even any riparian rights. Now, if a private individual under those circumstances should execute a lease of this kind, and impose the conditions that are imposed in the lease, he could make it, unquestionably, but those provisions would be absolutely void. That is precisely the condition where the Government undertakes to deal with it in the same way. These provisions, undertaking to control the use of the water by the State, while they may be contained in the contract of lease, are absolutely void as against the State or anybody who seeks to obtain title to the water under the laws of the State.

I think the Senator from Connecticut has overlooked that feature of the situation in dealing with this question of the right of the Government to impose conditions. It has a right to impose such conditions as are not in conflict with the laws of the State. It has no right to impose them if they are in violation of the laws of the State.

Mr. BORAH. In other words, any contract which the Government makes with reference to its land is the same as if John Doe or Richard Roe should go in, owning that land, and make the same contract. It is subject to the laws of the State and to the direction of the State.

Mr. BRANDEGEE. I have assumed that the laws of the State have been complied with, under the terms of the bill, before the Government makes the lease to the party.

Mr. SHAFROTH. They have not been complied with under the procedure of eminent domain.

Mr. BRANDEGEE. I do not like to have the gory locks of that spectre shaken at me again, because I am not talking about eminent domain.

Mr. WORKS. Mr. President, the question of eminent domain, of course, is not the only question involved here. Now, I am perfectly satisfied that under the laws of the State of California it would be utterly impossible to comply with these conditions. Then what would you do?

Mr. BRANDEGEE. I should say that the Senator would not be damaged at all if that was the case.

Mr. WORKS. Still, the law itself may be void in its terms if it attempts to do that; and certainly Congress does not want to do that.

Mr. BRANDEGEE. If the conditions of a lease are impossible of execution, I suppose the lease would be set aside; but what has that to do with the question? What conditions are impossible of execution in the State of California under this bill?

Mr. WORKS. For instance, it is required that before the construction of the works can be begun the law of California must be complied with, and the right to take out the water must be acquired. Under the laws of California, all that you can do is to get a permit in the first instance to take out the water, and to construct the necessary dams under that statute; and the party gets no right at all to the water until the con-

struction is actually completed and approved by the State authorities. Therefore, it is utterly impossible for the laws of the State of California to be complied with before this work commences.

Mr. BRANDEGEE. Then I should think clearly the bill could not operate in the Senator's State.

Mr. POINDEXTER and Mr. WALSH addressed the Chair.

Mr. SHAFROTH. I think the Senator from Washington rose first. I will yield first to him, and then to the Senator from Montana.

Mr. POINDEXTER. I simply wished to comment on the Senator's statement that Congress has no power, under the constitutional term "dispose of * * * the territory or other property belonging to the United States," to lease the public lands.

Mr. SHAFROTH. Oh, there was a decision rendered in the Missouri case about 1846 or 1847 which held that the United States did have a right to lease; that it was not a determination to dispose of the land, and it was a five-year lease. It was a case involving the lead mines in Missouri. Senator Benton was the man who fought the leasing system in those days, and he carried it to the extent of becoming counsel in the case in the Supreme Court of the United States.

Mr. POINDEXTER. Yes. I want to quote just a word from what Mr. Benton said in that case to show that the identical argument which the Senator from Colorado is making now was made then. I read from the case of The United States, plaintiff in error, against John P. Gratiot, et al., defendants in error, reported in Fourteenth Peters, at page 526. I read first from the argument of counsel for the defendant, Mr. Benton, on page 532:

> The position has been assumed by the Attorney General that the United States may enter into the broad business of leasing the public lands, and, by consequence, that the President may have as many tenants on the public lands of the United States as he shall desire; that he may lease in perpetuity, and have those tenants to the extent of time. Such a power is solemnly protested against.

That is quite parallel to the attitude of the Senator from Colorado.

Mr. SHAFROTH. Yes; I have made a protest or two.

Mr. POINDEXTER. Mr. Benton proceeded:

> No authority in the cession of the public lands to the United States is given but to dispose of them and to make rules and regulations respecting the preparation of them for sale, for their preservation, and their sale.

The Supreme Court in deciding the case uses this language, at page 538. I will read only a line:

> The words "dispose of" can not receive the construction contended for at the bar; that they vest in Congress the power only to sell and not to lease such lands. The disposal must be left to the discretion of Congress. And there can be no apprehensions of any encroachments upon State rights by the creation of a numerous tenantry within their borders, as has been so strenuously urged in the argument.

Mr. SHAFROTH. Yes. Now, Mr. President, nearly all of these decisions refer to this exercise of ownership of the public lands of a temporary nature, as is contained in this later decision. The statement is made that it is for a temporary purpose.

> The right of Alabama and every other new State to exercise all the powers of government which belong to and may be exercised by the original States of the Union must be admitted and remain unquestioned, except so far as they are temporarily deprived of control over the public lands.

That is the situation. Not only that, but time and again, in decisions of the Supreme Court, this right of the Government is considered a right to hold the lands in trust for the people until disposed of; and for 125 years the policy has been to dispose of them, and not to lease them. Consequently, if there was nothing else but a construction of the past acts of Congress with relation to the disposition of the public lands, together with the fact that we were brought into the Union by an enabling act confirming the rights of the various States as being upon an equal footing, that would show that there has been such a construction placed upon that expression in the Constitution, "dispose of," as indicated sale or parting of title, and consequently, with that construction, Colorado was admitted into the Union. Is it possible, under those circumstances, that it is right for the Government to change it? Is there not an implied contract upon the part of the Government, even if it were not in violation of the Constitution, to adhere to that principle that existed at the time Colorado consented to become a State of the Union?

Mr. WALSH. Mr. President——

Mr. SHAFROTH. I yield to the Senator from Montana.

Mr. WALSH. I thank the Senator from Colorado, although it may bring neither comfort nor satisfaction to him. I desire to say to the Senator from Connecticut [Mr. BRANDEGEE] that, in my humble judgment, the views expressed by him concerning this matter are eminently sound and the arguments advanced are altogether unanswerable. It is exceedingly gratifying that a lawyer from the East, having listened to the discussion of this question, takes so readily the view of it that he has announced.

Mr. BRANDEGEE. If the Senator will allow me, I should like to ask the Senator from Idaho a question bearing on that matter.

Mr. POINDEXTER. Certainly.

Mr. BRANDEGEE. Does not the Senator from Idaho think that the Government has a right to lease these public lands?

Mr. BORAH. I have not any doubt about that, at least for a limited period.

Mr. BRANDEGEE. What does the Senator complain of in this bill, then?

Mr. BORAH. I complain, in the first place, that it is a leasing system; that as a matter of policy it is wrong, because it is a leasing system. Let us suppose that the little State of Connecticut——

Mr. BRANDEGEE. Just a minute.

Mr. BORAH. Wait just a moment.

Mr. BRANDEGEE. I agree that people can well differ about that; but, I mean, what does the Senator claim there is illegal or unconstitutional in the bill?

Mr. BORAH. I have not yet discussed that question at all.

Mr. BRANDEGEE. Oh, very well.

Mr. BORAH. But here is the proposition: As a practical proposition, suppose that the State of Connecticut, like the State of Idaho, had 82 per cent of its entire area under the control of the National Government, and suppose that a leasing system were being introduced in the National Congress which had for its ultimate object the holding of that 82 per cent in the control of the National Government for all time to come. As a matter of policy it reaches almost to the dignity of a constitutional question, because in effect it deprives us of Statehood. It deprives us of the ability to build up those institutions which are indispensable to Statehood. As a practical proposition, it transfers the local affairs, the local conditions, and our local institutions to control at Washington. It is in violation of the entire spirit of our dual form of government. It destroys local self-government without which we can have no States. It is a vicious policy and its constitutionality involves other and graver constitutional questions than the mere power of the National Government to lease lands.

Mr. BRANDEGEE. Mr. President, I am perfectly familiar with that objection to this class of measures. The Senator's former colleague, Senator Heyburn, felt very deeply about that subject, principally in relation to the subject of forest reserves, and the amount of lands that were withdrawn for that purpose.

I appreciate the difficulty under which the western Senators labor when they picture that large portions of their States are to be withdrawn for years—and in some cases forever—from taxation, and so forth; but I was not discussing those subjects. I think I would sympathize very much with the Senators who are situated in those States in their views on the wisdom of that policy. I supposed, however, that the objections which were being made to this bill were legal and constitutional, and I was looking at it solely with that in view.

Mr. BORAH. I do not mean to say that there are not legal and constitutional questions involved in the matter, because, ultimately, by the processes provided for in this bill, the National Government does come to own these power plants and the water rights which are attached to them. If the lease expires and the Government takes over the property, and so forth, the Government, through a process which we claim is not constitutional, comes ultimately to own these properties and to control them and to prevent our developing in the way that the local authorities might seem to think best for the purpose of development.

Mr. BRANDEGEE. I see that, of course. I was not discussing that at all, however.

Mr. SHAFROTH. I expect to treat this question from a practical standpoint, if I can get to it.

Mr. MYERS. Mr. President, I should like to ask the Senator from Colorado a question.

Mr. SHAFROTH. I yield to the Senator from Montana.

Mr. MYERS. If this bill should provide that the compensation for the use of the land should be regulated by the amount of cubic feet per second which flows past in a stream, would that be any invasion of the rights of the State over the control of the waters?

Mr. SHAFROTH. Why, that is practically the way measurements are made.

Mr. MYERS. But if this bill should provide that the rental price of the land should be fixed according to the number of cubic feet per second of water that flow by in a stream, would

that be any invasion of the rights of the State to control the water?

Mr. SHAFROTH. I think so, because the State has prescribed another way of ascertaining the value of the land.

Mr. MYERS. If the bill should say that if a thousand cubic feet per second flow by the land it shall be worth ten times as much as if a hundred cubic feet per second flow by the land, would that be any infringement on the rights of the State?

Mr. SHAFROTH. Yes; because——

Mr. MYERS. I can not see that at all.

Mr. SHAFROTH. Because the State has prescribed a certain measure of value in condemnation proceedings; and whenever you attempt to set up a different measure, whether it is for the benefit of the State or to the detriment of the State, it is an invasion of the right. If the State says they can get land upon payment of just compensation, that is the requirement, and it must not be measured by what the stream is worth or how much the water is worth.

Mr. MYERS. It must not have anything to do with the stream?

Mr. SHAFROTH. No, sir; because the State has the power of eminent domain, and if it waives that, or if it is superseded by the National Government prescribing another way of doing it, it is an invasion of the sovereignty of the State.

Mr. MYERS. All right. Now let me ask the Senator another question. Suppose this bill becomes a law just as it is, and suppose the Legislature of the State of Colorado enacts a law providing that nobody shall be allowed to appropriate any water of the flowing streams of that State for the purpose of generating hydroelectric power in connection with land leased from the Federal Government, nor shall any of the waters be so used, and forbids any man from appropriating any of the waters of a stream to be used under a lease in this bill. Would that law be effective?

Mr. SHAFROTH. Why, certainly not, because the constitution of the State of Colorado prescribes absolutely that the waters shall be used for this purpose.

Mr. MYERS. Then this is no invasion of your constitutional rights?

Mr. SHAFROTH. Oh, no. Here is the invasion of them: We have the power of eminent domain. The Federal Government has not the power of eminent domain. When we have a law of eminent domain, if the Federal Government comes in and says that such another mode of procedure or such another way of ascertaining the value shall exist in that State, it is an invasion of that right.

Mr. MYERS. The Senator always gets off on the right of eminent domain. That has nothing whatever to do with the question.

Mr. SHAFROTH. I think it has. I think that is the measure.

Mr. MYERS. Suppose a citizen of the State now has the right of exercising the power of eminent domain on United States lands: Can this bill take it away, or lessen that right in any degree?

Mr. SHAFROTH. It evidently practically takes it away as to the United States Government.

Mr. MYERS. Can you not condemn subject to the lease?

Mr. SHAFROTH. Why, you would never make any headway against the Government.

Mr. MYERS. But in the case of anybody who wanted to condemn, you would not take away the right?

Mr. SHAFROTH. Oh, no. You would find that it would cost so much that it would be impossible to condemn; but if you want to do what this bill is intended to accomplish—namely, that you shall get a revenue out of the waters of the State—that is just what you are doing.

Mr. MYERS. Why, the bill expressly disclaims that.

Mr. SHAFROTH. Oh, yes; it disclaims it, but it makes it so that nothing can be done unless that charge is made. If you were to pass such a law as that, and say in direct terms that the United States Government shall get a revenue out of the water, you would find that no one would agree that such an act would be constitutional; and yet in effect, indirectly, you are doing that identical thing.

Now, I want to call attention, if I may resume where I left off before the interruption, to this decision in Kansas versus Colorado. I explained the nature of the decision, and I want to read from page 92 of Two hundred and sixth United States Reports:

> As to those lands within the limits of the States, at least of the Western States, the National Government is the most considerable owner and has power to dispose of and make all needful rules and regulations respecting its property. We do not mean that its legislation can override State laws in respect to the general subject of reclamation. While arid lands are to be found mainly, if not only, in the Western and newer States, yet the powers of the National Government within the limits of those States are the same—no greater and no less—than those within the limits of the original 13, and it would be strange if, in the absence of a definite grant of power, the National Government could enter the territory of the States along the Atlantic and legislate in respect to improving by irrigation or otherwise the lands within their borders. Nor do we understand that hitherto Congress has acted in disregard to this limitation.

Now I wish to read a little paragraph at page 93:

> But it is useless to pursue the inquiry further in this direction. It is enough for the purposes of this case that each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters.

And again, on page 94:

> Such title being in the State, the lands are subject to State regulation and control, under the condition, however, of not interfering with the regulations which may be made by Congress with regard to public navigation and commerce. * * * Sometimes large areas so reclaimed are occupied—

And so forth.

That does not bear upon the question.

Mr. President, it seems to me this decision in the case of Kansas against Colorado, which says that the ownership of the Federal Government with relation to water is identically the same as the ownership of it in the New England States or in the Original Thirteen States, ought to make it clear that the Federal Government has no right directly to make any tax or interfere with the policy of the State as to the water, and whenever it undertakes a leasing system prescribing compensation for property taken in violation of the eminent domain of the State it seems to me that it is doing not only what is wrong but which, if expressed in clear language as the intent and meaning of this act, would be unconstitutional. It may be that its wording may be in such an indirect manner that the court would not declare it to be unconstitutional, but it seems to me that it would and must if the direct meaning of the act could be clearly shown to be the purpose of the bill.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Does the Senator from Colorado yield to the Senator from Iowa?

Mr. SHAFROTH. Yes; I yield to the Senator.

Mr. CUMMINS. I recognize that the point we were discussing a few moments ago is not very relevant to the bill, but I am sure the Senator from Colorado desires to be right in the matter, and I want now to ask him to examine three rather recent cases of the Supreme Court of the United States which I shall cite to him, all of which hold directly that the United States has the sovereign power of eminent domain to carry out any power that is granted to it in the Constitution.

Mr. SHAFROTH. Yes; any governmental power.

Mr. CUMMINS. Any governmental power. Of course it has no power to exercise the right of eminent domain in order to effectuate its purposes merely as a proprietor.

Mr. SHAFROTH. There is no governmental power to take any water.

Mr. CUMMINS. I agree with the Senator from Colorado about that, but I was concerned with the principle which he announced with respect to the power of the General Government. The cases are Kohl against United States, in Ninety-first United States, at page 371; Fort Leavenworth Railroad Co. against Lowe, in One hundred and fourteenth United States, at page 531, and the Cherokee Nation against The Kansas Railway Co., in One hundred and thirty-fifth United States, at page 657. The only reason why I asked the Senator from Colorado the question is because I think it is intimately connected with another proposition which he made yesterday, in which I concur with him, namely, I think the State of Colorado has the right to condemn the public land of the United States within the limits of Colorado which is not being used for some governmental purpose, and these two things are rather closely connected with each other.

Mr. SHAFROTH. What is the page of the last decision, please?

Mr. CUMMINS. The page from which I would read, if I were citing the case to a court, is page 641.

Mr. SHAFROTH. Thank you.

Mr. SUTHERLAND. Has the Senator from Iowa among the cases the one which involved the condemnation of land forming part of the battle field of Gettysburg?

Mr. CUMMINS. No. I supposed that, of course——

Mr. SUTHERLAND. That is an exceedingly strong case.

Mr. CUMMINS. That would be a very strong case in favor of the proposition I made. I did not suggest that, because I have always been gravely in doubt whether the purpose of taking property there was a purpose within a grant in the Constitution.

Mr. SUTHERLAND. The Supreme Court held that it was.

Mr. CUMMINS. It held that it was, and that the United States could condemn it.

Mr. SUTHERLAND. I did not suppose that there was any doubt about the power.

Mr. CUMMINS. It was denied a few moments ago that the United States had any power of eminent domain as a sovereign power, and that it could not go into any State against the will of that State and take property for any governmental purpose.

Mr. SHAFROTH. I should like to cite to the Senator from Utah, if he doubts this proposition, the statement concerning the matter in Pollard's Lessee versus Hagan. All the proceedings by the United States are under and by virtue of the laws of the State, and this goes upon the theory that there is no delegated power which gives the right of eminent domain to the United States, and that therefore it does not possess it; but the Federal Government in the exercise of any of its functions to acquire land for peculiarly governmental purposes has a right to condemn under the very laws of the State, and those laws have been required in the constitution of every State which has been admitted into the Union.

Mr. SUTHERLAND. It seems to me the General Government may exercise the right of eminent domain to acquire lands whenever that is necessary to enable it to carry out any governmental purpose.

Mr. SHAFROTH. Certainly.

Mr. SUTHERLAND. And when it does it exercises its own power. It does not condemn under the laws of the State. It is one of the powers that are included in the general clause of the Constitution, which confers the so-called implied power to pass laws necessary to carry into execution the granted powers. Whenever the General Government has the power to do any particular thing, it has as an incident to it all the necessary subsidiary power, and it has it as a matter of its own right and not by virtue of the laws of some State, as I understand it.

Mr. SHAFROTH. Of course there is not any doubt but that the Federal Government has the right in things that are governmental to exercise not its sovereign power of eminent domain, but the sovereign power of the State in eminent domain. Let me read this decision.

Mr. SUTHERLAND. Let me call the Senator's attention to the case I spoke of a moment ago; that is, the Gettysburg case. What was done there in the way of condemning and taking land was done under an act of Congress.

Mr. SHAFROTH. Certainly.

Mr. SUTHERLAND. Not under the law of the State of Pennsylvania, where the battle field is situated.

Mr. SHAFROTH. I do not know whether the act of Congress prescribes what should be done, but I want to call the Senator's attention to this very decision. It seems to me that it is so clear there can not be any doubt about it:

> The right which belongs to the society or to the sovereign of disposing in case of necessity and for the public safety of all the wealth contained in the State is called the eminent domain. It is evident that this right is in certain cases necessary to him who governs, and is consequently a part of the empire or sovereign power. (Vat. Law of Nations, sec. 244.) This definition shows that the eminent domain, although a sovereign power, does not include all sovereign power, and this explains the sense in which it is used in this opinion. The compact made between the United States and the State of Georgia was sanctioned by the Constitution of the United States, by the third section of the fourth article of which it is declared, that "new States may be admitted by the Congress into this union, but no new State shall be formed or created within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States without the consent of the legislatures of the States concerned, as well as of Congress.
>
> When Alabama was admitted into the Union on an equal footing with the original States she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States for the temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in the cases in which it is expressly granted—

For temporary purposes.

Mr. President, we get confused in regard to the United States attempting to condemn something. It is not condemning something by virtue of its power of condemnation. It is condemning it by reason of the fact that it is for a public purpose, just like an individual or a company must condemn for something within the charter of the company, and it has a right to exercise the eminent domain of the State for that purpose. But evidently that decision is very plain.

Mr. CUMMINS and Mr. SUTHERLAND addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Colorado yield, and if so, to whom?

Mr. SHAFROTH. I yield first to the Senator from Iowa.

Mr. CUMMINS. I only have to say that there is nothing in these later opinions in conflict with the case from which the Senator from Colorado has just read, when they are examined closely.

Of course the United States has no power of eminent domain with respect to the municipal affairs of the State of Alabama, and, of course, the State of Colorado has the entire sovereignty in eminent domain so far as her laws and her sovereignty are concerned. But the proposition laid down in these cases is that when the Constitution has granted to the Federal Government a certain power or function, then with regard to that function the Federal Government is supreme; it has all the attributes and characteristics of sovereignty, and can employ all the powers of sovereignty, including that of eminent domain.

There are two of the cases to which I have called the Senator's attention in which the right of eminent domain has been granted by Congress. In one of them Congress granted a right of way across the Cherokee Indian lands and granted to the railway company which was to occupy the right of way the power of eminent domain. Another case arose in Minnesota where another had granted the power of eminent domain, and the suit was prosecuted in the courts of the United States, without any respect to, or any authority from, the laws of the State.

I beg the Senator's pardon for injecting this in his speech. I recognize that it is not very material to the argument he is making, but I think we ought to keep our views with regard to the power of the United States as straight as we can, and not to judge or determine the merits of this bill upon a false conception with regard to the supremacy or sovereignty of the United States.

Mr. SHAFROTH. Mr. President, I will examine the authority to which the Senator has referred; but if the power of eminent domain exists in the National Government, would it not exist to the full extent that it may be desired to exercise it for a governmental purpose?

Mr. CUMMINS. Precisely; for no other purpose. It must be limited to the accomplishment or carrying out of a power that is granted by the States to the General Government.

Mr. SHAFROTH. Now, suppose, Mr. President, that the Congress of the United States should say that we want all of Colorado as a military reservation. That is within the power of the Government to exercise for the purpose of exercising its right to designate and to acquire things for governmental purposes. But suppose it should say we will acquire all of Colorado. You can wipe out a State if that power of eminent domain exists in the Federal Government.

There is confusion, it seems to me, upon the part of Senators who have disputed this proposition as to where the power of eminent domain exists. It exists in the State. It does not exist in the Federal Government, but the Federal Government can appeal and in the process of the eminent-domain power of the State acquire anything it wants for governmental purposes. But it can not wipe out a State. If it has this power of eminent domain, it has it against the State. The State has never ceded it to the Federal Government, and inasmuch as this decision which I have read in Kansas against Colorado says that unless it is in the grant it does not exist in the Federal Government, for that reason it seems to me, as to this power of eminent domain, it is an important matter now to determine as to whether the Government can take that which exists owned by the State and thus cripple the State's power of eminent domain over the waters of a State.

Mr. SAULSBURY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Delaware?

Mr. SHAFROTH. I yield to the Senator.

Mr. SAULSBURY. Has the Senator considered in connection with the argument he has just made the limitation upon the power of the United States respecting "the erection of forts, magazines, arsenals, dockyards, and other needful buildings" contained in section 8 of Article 1 of the Constitution?

Mr. SHAFROTH. Certainly I have, and unquestionably the question is not whether the United States can exercise the power of eminent domain of the State for the purpose of acquiring that. It can. There is no doubt but that the Federal Government can appeal to the State and to the procedure of the State, where certain rules and regulations are prescribed, and acquire a site there. It can do that.

Mr. SAULSBURY. With the consent of the legislature.

Mr. SHAFROTH. With the consent of the legislature.

Mr. SAULSBURY. Precisely.

Mr. SHAFROTH. But it requires the consent of the legislature; and that very fact shows that the power of eminent domain does not exist independently in the National Government itself.

Mr. SAULSBURY. I will state to the Senator from Colorado that my interruption was a friendly one, as I had not heard him discuss that provision. It seems perfectly applicable to the present stage of the discussion.

Mr. SHAFROTH. Yes, sir. I thank the Senator very much.

Mr. CHILTON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from West Virginia?

Mr. SHAFROTH. I yield.

Mr. CHILTON. In the case of Fort Leavenworth Railroad Co. v. Lowe (114 U. S., p. 531), in disposing of this very question, the Supreme Court says:

> The General Government is not dependent upon the caprice of individuals or the will of State legislatures in the acquisition of such lands as may be required for the full and effective exercise of its powers.

I have run that down, and I will assure the Senator from Colorado that there can not be any doubt about it. It has been discussed and the proposition of law is exactly as stated by the Senator from Iowa [Mr. CUMMINS]. The reasons why the courts have so held are fully set forth in the decisions. I did not want to interrupt the Senator, but there is no question in the world but that the Supreme Court has settled the docrine just as I have read it.

Mr. SHAFROTH. Well, the Senator from West Virginia has heard the comment which I made just a while ago from the decision in Third Howard, in which it was directly stated that the Government had no power of eminent domain inherent in itself; and unquestionably that is settled by the decision in the case of Kansas against Colorado, to which I referred and which was a recent decision, more recent even than the one from which the Senator from West Virginia has just read. It seems to me that it is very plain and clear. In that decision, Two hundred and sixth United States Reports, page 46, it is stated:

> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the tenth amendment of the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people, and that if, in the changes of the years, further powers ought to be possessed by Congress, they must be obtained by a new grant from the people. While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State except to preserve or improve the navigability of the stream, that the full control over those waters is, subject to the exception named, vested in the State. Hence the intervening petition of the United States is dismissed, without prejudice to any action which it may see fit to take in respect to the use of the water for maintaining or improving the navigability of the river.

Mr. SUTHERLAND. Mr. President, I understood the Senator from Colorado a moment ago, in a colloquy with the Senator from Delaware [Mr. SAULSBURY], to assent to an assertion made by the Senator from Delaware, that the Government of the United States could not condemn a site for a post office in a State without the consent of the State. Did I understand that statement correctly?

Mr. SHAFROTH. I am inclined to think that is correct. It is always done; I know that.

Mr. SUTHERLAND. Mr. President, I think both Senators are confusing the question of the power of eminent domain with the question of jurisdiction over the land which constitutes the site after it may be acquired by the General Government. Before the General Government can exercise exclusive jurisdiction over the land which it has acquired for a post-office site it must have the consent of the State.

Mr. SHAFROTH. There is no doubt of that.

Mr. SUTHERLAND. But if the United States has the power to build a post office, which undoubtedly it has——

Mr. SHAFROTH. Yes.

Mr. SUTHERLAND. Then it has necessarily every subsidiary power that may be necessary to enable it to acquire the site for the post office.

Mr. SHAFROTH. I have not any doubt that the United States——

Mr. SUTHERLAND. Just a moment. If the Senator from Colorado is right, that the United States Government must obtain the consent of the State before it can do that, then it exercises its power at the sufferance of the State, and the State may prevent it if it passes appropriate legislation. Now, if the Senator will permit me——

Mr. SAULSBURY. May I suggest that I made no such statement as that attributed to me by the Senator from Utah?

Mr. SUTHERLAND. That is set at rest, it seems to me, by the decision, which I called attention to a moment ago, in the Gettysburg case.

Mr. SAULSBURY. If I may interrupt the Senator, I wish to say that I made no such assertion as that attributed to me by the Senator.

Mr. SUTHERLAND. I perhaps misunderstood the Senator, but I understood that that was his statement, and that the Senator from Colorado assented to it.

Mr. SHAFROTH. Mr. President——

Mr. SUTHERLAND. If the Senator will pardon me a moment——

Mr. SHAFROTH. I wish the Senator to bear in mind that the Government has, by reason of its right to build post offices under the eminent-domain act of the State, a right to come in and condemn; it does not require an act of the legislature, except to cede jurisdiction.

Mr. SUTHERLAND. No.

Mr. SHAFROTH. But it does seem to me that it is exercising the power of eminent domain when it is going into a State.

Mr. SUTHERLAND. No; Mr. President, I can not assent to that. The Government of the United States, when it exercises the power of eminent domain to carry out one of its legitimate functions, exercises that power under the Constitution of the United States. If it has the power to do a thing, it has impliedly all subsidiary powers which are necessary to enable it to effectuate the power which is conferred.

Let me read the Senator what was said in the case of the United States against Gettysburg Electric Railway, a case to which I directed attention a moment ago. It is reported in 160 United States. I will read from page 680.

> Upon the question whether the proposed use of this land is a public one, we think there can be no well-founded doubt. And also, in our judgment, the Government has the constitutional power—

That means the power under the Constitution of the United States, not under some State constitution or under the laws of some State—

> The Government has the constitutional power to condemn the land for the proposed use. It is, of course, not necessary that the power of condemnation for such purpose be expressly given by the Constitution. The right to condemn at all is not so given. It results from the powers that are given, and it is implied because of its necessity and because it is appropriate in exercising those powers.

Nothing could be clearer or more explicit than that.

Mr. SHAFROTH. I do not think anything could be more explicit than the language which I have read, which has been approved time and time again. I will read it once more:

> And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State.

It seems to me, Mr. President, that that is a clear authority, and it has been approved in any number of cases, and it is one of the leading cases in the United States.

Mr. President, it seems to me that it is clear from these decisions—and we have been diverted by a discussion of the question of eminent domain—that the Government of the United States possesses no ownership in the waters of nonnavigable streams, and, under the case in Third Howard cited by me, I expected to invoke the principle that the United States Government had no right by any indirect method to do that which it could not do directly. I was interrupted by the Senator from Iowa [Mr. CUMMINS], because of a statement which I had made, and the discussion has traveled somewhat afield from the original proposition, but I believe that the authority is plain and clear and recognized by all that if the United States should attempt to lease, in a State, the waters of a nonnavigable stream, it would be held to be an absolutely unconstitutional act on its face, and that the Supreme Court of the United States would so declare. Under the pending bill the United States seeks to do indirectly what it can not do directly. That being the case, it seems to me this bill is in effect, although couched in words which might by liberal construction bear the intent and interpretation that it was not designed to effectuate that kind of Federal control, in violation of the Constitution. It may be that because of the indirect language used it might not be so held by a court, just as the courts have held that the Government can lease for a limited period of time; but I have no doubt that if land were attempted to be leased forever, so as to prevent the opportunity of sale, and if that should be stated to be the policy of the Government to lease its lands forever, it would be declared by the Supreme Court of the United States unconstitutional, because the Constitution provides that public lands shall be disposed of, and leasing forever

is not a disposition, but is a permanent holding. I will resume the discussion of the provisions of the bill to-morrow.

Mr. SMOOT. I inquire if the Senator from Colorado desires to proceed further this afternoon? The hour is rather late.

Mr. SHAFROTH. I would prefer, if it be agreeable to the Senate, to suspend at this time and yield for an adjournment.

MILITARY PREPAREDNESS.

Mr. McCUMBER. I desire to give notice that to-morrow morning, immediately after the close of the routine morning business, with the permission of the Senate, I shall submit some remarks on certain phases of the so-called preparedness program.

Mr. MYERS. Mr. President, in relation to what the Senator from North Dakota has just said, I favor taking a recess until to-morrow. He could, however, deliver his remarks immediately upon the meeting of the Senate at the expiration of the recess with the unfinished business pending. The taking of a recess would not prevent him from making his remarks.

Mr. CHAMBERLAIN. I hope the Senator from Montana will not move a recess. I desire to report the military reorganization bill, if I can get the opportunity to do so, to-morrow morning.

STATUE OF HENRY MOWER RICE.

Mr. CHILTON. From the Committee on Printing, I desire to make a report on Senate concurrent resolution 16, and I ask unanimous consent for its immediate consideration. It is in the usual form, it is according to custom in every way, I understand, and I should like to have it now considered.

The PRESIDING OFFICER. The Senator from West Virginia asks unanimous consent for the present consideration of a resolution which he reports from the Committee on Printing. Is there objection?

Mr. PITTMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator object to receiving the report?

Mr. PITTMAN. I want to know what the request is.

Mr. CHILTON. It is simply a report from the Committee on Printing regarding the printing of the proceedings in Congress upon the acceptance of the statue of Henry Mower Rice, of Minnesota.

Mr. PITTMAN. I have no objection.

Mr. SMOOT. Is it the usual resolution in such cases?

Mr. CHILTON. It is the usual resolution.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Printing with an amendment, in line 7, after the words "sixteen thousand five hundred copies," to insert "with suitable illustration."

The amendment was agreed to.

The resolution as amended was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, under the direction of the Joint Committee on Printing, the proceedings in Congress, together with the proceedings at the unveiling in Statuary Hall, upon the acceptance of the statue of Henry Mower Rice presented by the State of Minnesota, 16,500 copies, with suitable illustration, of which 5,000 shall be for the use of the Senate and 10,000 for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Minnesota.

COLLECTION OF DISCRIMINATING DUTIES.

Mr. JONES. I have a Senate resolution asking for certain information from the Treasury Department, which I should like to have considered, if I may, at this time.

The PRESIDING OFFICER. The Senator from Washington asks unanimous consent for the present consideration of a resolution, which will be read.

The resolution (S. Res. 133) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate:

First. With a tabulation showing, so far as possible, the amounts collected by the United States of extra or discriminating duties on imports in foreign vessels, by years and by nationalities of vessels bringing such imports into the United States, from the passage of the act of August 10, 1790, entitled "An act making further provision for the payments of the debts of the United States," to date.

Second. With a tabulation showing, so far as possible, the amounts collected by the United States of tonnage duties on foreign vessels, by years and by nationalities of vessels entering the ports of the United States from foreign countries, wherever and in such amounts as such tonnage duties were in excess of the tonnage duties imposed on vessels of the United States, from the first collection of such extra-tonnage duties on foreign vessels, in 1789, to date.

FUNERAL OF SENATOR SHIVELY.

The PRESIDING OFFICER. If the Senate will indulge the Chair, the Vice President has asked the occupant of the chair to announce the appointment of the following committee to attend the funeral of the late Senator SHIVELY: Mr. KERN, Mr. SMITH of Arizona, Mr. WILLIAMS, Mr. HOLLIS, Mr. JOHNSON of Maine, Mr. POINDEXTER, Mr. STERLING, Mr. THOMPSON, Mr. ASHURST, and Mr. PAGE.

PROPOSED RECESS.

Mr. MYERS. I move that the Senate take a recess until to-morrow at 12 o'clock noon.

Mr. CHAMBERLAIN. I hope the Senator will not move to take a recess. I should like very much to report the Army reorganization bill to-morrow, and if there is a single objection to it I can not do so if we have a recess.

Mr. MYERS. I do not think any Senator will object to the Senator making the report; but if the Senator thinks that a recess might interfere with the presentation of the report, I will withdraw the motion.

Mr. SMITH of Georgia. I do not think the Senator from Oregon need fear that there will be any objection.

Mr. CHILTON. I am quite sure the Senator need have no such fear.

The PRESIDING OFFICER. The Chair will suggest that a motion to adjourn takes precedence.

Mr. MYERS. The Senator from Oregon can move to adjourn if he prefers.

Mr. CHAMBERLAIN. I would not do so but for the fact that the Senator from North Dakota [Mr. McCUMBER] can make his speech in the morning with the water-power bill pending just the same, and he will do it in the morning hour. He tells me it will take an hour and a half, at least, to deliver his remarks, and I do not think an adjournment will at all disturb the business of the Senate.

Mr. MYERS. I have no objection to the Senator making a motion to adjourn.

Mr. SMOOT. I will say to the Senator that it is expected to bring up the urgent deficiency appropriation bill for consideration to-morrow.

Mr. MYERS. Then I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Friday, March 17, 1916, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March 16, 1916.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, draw us by Thy holy influence into the heavenly zone, that we may behold with our spiritual eyes the glories round about us and hear with our spiritual ears, above the din, turmoil, and roar of battle on this good old earth, the voices of angels calling us to come up higher, yet higher into the realms of purity; that as a people we may have a clearer vision of government of the people, by the people, for the people; that a higher type of citizenship may obtain throughout the length and breadth of the land; that we may have a firmer grip on the things which make for righteousness in the home, in society, in government, and "render unto Cæsar the things that are Cæsar's and unto God the things that are God's," after the manner of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

MR. CANNON'S EIGHTIETH BIRTHDAY.

Mr. MANN. Mr. Speaker, I ask unanimous consent that on Saturday, May 6, following the approval of the Journal, my colleague, Mr. RODENBERG, have permission to occupy one hour.

Mr. FITZGERALD. For what purpose?

Mr. MANN. The reason for making the request is that May 7 falls on Sunday. That is the eightieth birthday of my colleague, Mr. CANNON. [Applause.] It seems appropriate that we have a short speech from my colleague, Mr. RODENBERG, on that subject, and I hope that on the same occasion we may have the pleasure of hearing from the Speaker of the House, the leader of the majority, and the gentleman from Illinois, my colleague [Mr. CANNON] himself, although I do not make that a part of the request.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that on Saturday, May 6, after the reading of the Journal and the transaction of the business on the Speaker's table, the gentleman from Illinois [Mr. RODENBERG] be permitted to occupy one hour. Is there objection?

There was no objection.

FUNERAL OF SENATOR SHIVELY.

The SPEAKER. Five of the members whom the Chair appointed on the committee to attend the funeral of Senator